

When Are BPO's Unlicensed Appraisal Activity?

August 31, 2010

Unlicensed real estate appraisal activity is a serious matter. ORS 674.850(2) authorizes the Appraiser Certification and Licensure Board (Board) to impose a civil penalty, upon any person, for unlicensed appraisal activity of up to \$500 for the first offense and \$1,000 for each subsequent offense. These penalties are in addition to and not in lieu of criminal penalties. The largest civil penalty ever imposed by the Board for unlicensed appraisal activity is \$250,000.

Recently, the Board has received numerous inquiries about the activities of real estate brokers, specifically whether those activities constitute unlicensed appraisal activity. The statute that governs real estate brokers is Oregon Revised Statute (ORS) 696; the corresponding Oregon Administrative Rules (OAR) are found in OAR Chapter 863. Both are accessible from the Real Estate Agency website at <http://www.oregon.gov/REA>.

ORS 696.010 states that a:

“Competitive market analysis means a method or process used by a real estate licensee in pursuing a listing agreement or in formulating an offer to acquire real estate in a transaction for the sale, lease, lease-option or exchange of real estate. The object of a competitive market analysis is a recommended listing, selling or purchase price or lease or rental consideration. A competitive market analysis **may be expressed as an opinion of value** of the real estate in a contemplated transaction...” (emphasis added).

ORS 696.294 states:

- (1) As used in this section, ‘letter opinion’ means a document that expresses a real estate licensee’s conclusion regarding a recommended listing, selling, or purchase price or a rental or lease consideration of certain real estate that results from the licensee’s competitive market analysis.
- (2) The Real Estate Commissioner by rule shall specify the minimum contents of a letter opinion, including but not limited to the distinction between a letter opinion and a real estate appraisal.”

The minimum contents of a letter opinion and a competitive market analysis have been set forth in OAR 863-015-0190 as follows:

- (1) Real estate licensees may provide competitive market analysis and letter opinions in the normal course of their business when they are giving an opinion in pursuit of a listing, to assist a potential buyer in formulating an offer, or to provide a broker’s price opinion, whether or not done for a fee.
- (2) The term ‘value’ as used in a competitive market analysis or letter opinion is the estimated worth of or price for a specific property and is not intended to mean or imply the ‘value’ was arrived at by any appraisal method.
- (3) A competitive market analysis or letter opinion must be in writing and contain at least the following (emphasis added):
 - a. A statement of purpose and intent;
 - b. A brief property description;
 - c. The basis for the value, including the applicable market data and/or capitalization computation;
 - d. Any limiting conditions;
 - e. A disclosure of any existing or contemplated interest of the licensee in the subject property;
 - f. The licensee’s signature and date it was prepared;
 - g. A disclaimer that, unless the licensee is also licensed by the Appraiser Certification and Licensure Board, the report is not intended to meet the requirements set out in the Uniform Standards of Professional Appraisal Practice; and
 - h. A disclaimer that the competitive market analysis or letter opinion is not intended as an appraisal and that if an appraisal is desired, the services of a competent professional licensed appraiser should be obtained.”

Additionally, OAR 863-015-0190 states:

- (4) Real estate licensees can provide a ‘lending collateral analysis’ or ‘default collateral analysis’, if the analysis is used only for the internal purposes of a financial institution and, in the case of a ‘lending collateral analysis’, that any loan transaction at issue is less than \$250,000.
 - a. ‘Lending collateral analysis’ means a real property market analysis where the purpose of the analysis is for use by a lending institution in support of a loan application.
 - b. ‘Default collateral analysis’ means a real property market analysis where the purpose of the analysis is for use by a lending institution in considering its actions with respect to a loan in default.”

The Real Estate Agency offers valuable information and guidance for real estate brokers performing “lending collateral analysis” or “default collateral analysis” for the internal purposes of a financial institution. This information can be found on page seven of the Agency’s June 2009 edition of its newsletter, the Oregon Real Estate News-Journal. The title of the article is Broker’s Price Opinions for Financial Institutions.

Real estate brokers that perform BPOs that fall within the safe harbor of the laws, administrative rules and the Real Estate Agency recommendations stated above have no risk of engaging in unlicensed real estate appraisal activity. However, brokers who perform BPOs, competitive market analysis or letter opinions for reasons other than those permitted by statute and administrative rule are at risk of engaging in unlicensed real estate appraisal activity and that, as mentioned previously... is a serious matter.



Bob Keith, Administrator, Oregon Appraiser Certification and Licensure Board, and Gene Bentley, Commissioner, Oregon Real Estate Agency

Representing Buyers or Sellers of Residential Condominiums

Kim Medford

September 01, 2010

Although there are many new things to learn in today’s changing real estate market place, there are some concepts that have been with us for a while, continue to evolve and continue to move to the forefront of transactions in a market in which buyers are seeking out lower priced housing options. Buying and selling residential condominiums is one of those areas.

The regulations and documentation requirements for such transactions is different from the purchase and sale of a single family home. The two time frames for such a transaction are:

- The First Sale of a Residential Condominium Unit by the Declarant
- Resales of a Condominium Unit

FIRST SALE OF A RESIDENTIAL CONDOMINIUM

The following are document requirements for the first sale of a residential condominium unit by the declarant:

- Disclosure statement
- Unit sales agreement
- Unit sales agreement: notice to purchaser
- Reservation agreement
- Presale” unit sales agreement

If you are a residential broker, you probably document transactions on the Oregon Real Estate Forms Residential Real Estate Sale Agreement. You cannot use that agreement for the first sale of a residential condominium. Instead, you must ensure that the documents listed above are given to the buyer and use the unit sales agreement approved by the Real Estate Agency for the transaction.

The following is a summary of the content and some important aspects of each of the required documents.

Disclosure Statement

A declarant (a.k.a. "developer"), as the seller, must provide a disclosure statement approved by the Real Estate Agency to each prospective purchaser of a residential condominium unit not later than the date the unit sales agreement is signed. The disclosure statement is a legal document unique and specific to a condominium that is prepared by the developer's attorney and submitted to the Agency for approval.

Important Tip: The broker for the declarant should carefully read and understand the disclosure statement. The broker for the purchaser should carefully read and understand the disclosure statement.

When you review the disclosure statement, you should be looking for all of the items required to be disclosed under Oregon law, including but not limited to:

- The name and address of the condominium, and the name, address and telephone number of the developer.
- A general narrative description of the condominium stating the total number of units, a description of the types of units, the total number of units that may be included in the condominium pursuant to ORS 100.105 (2), and a precise statement of the nature of the interest which is being offered.
- If at the time of filing the construction of the project is not completed, general disclosure of the status of construction and the actual or scheduled dates of completion of buildings, recreational facilities and other common elements, including a statement describing any recreational facilities or improvements to the common elements that the developer reserves the right to develop or promises to develop, or a statement that there are no such facilities or improvements.
- If at the time of filing the construction of the project is completed, the actual dates of completion of buildings, recreational facilities and other common elements if known by the developer.
- The nature and significant terms of any financing offered by the developer to purchasers of the condominium units. Copies of any warranties for structural elements and mechanical and other systems or a brief description of such warranties.
- A current or projected budget of the association of unit owners for the operation and maintenance and any other common expenses of the condominium, including an amount for a subsidy of the association by the declarant, if any, by a contribution of funds, goods or services.
- A brief statement of the method of determining liability for common expenses and the right to common profits.
- The following notice in at least 12-point type that is either all capitals or boldface:
NOTICE TO PROSPECTIVE PURCHASERS
THE PROJECTION OF THE BUDGET OF THE ASSOCIATION OF UNIT OWNERS FOR THE OPERATION AND MAINTENANCE AND OTHER COMMON EXPENSES OF THE CONDOMINIUM IS ONLY AN ESTIMATE, PREPARED WITH DUE CARE.
- *A list of the documents by which purchasers may be bound*, including the declaration, bylaws, ground leases, management agreement, easements, covenants, restrictions and conditions.
- A statement of whether there are any restrictions on sale of units or any use or occupancy restrictions, such as limitations on residential or commercial use, pets, age of occupants or number of occupants, and a cross-reference to those portions of the declaration, any supplemental declaration, bylaws or any other document containing the principal provisions relating to those restrictions.

No changes may be made to a disclosure statement. If changes are made to an issued disclosure statement, the disclosure statement is *null and void*. If there is a "Material change to a disclosure statement" that needs to be made, the declarant must get a new disclosure statement issued by the Agency and must provide the purchaser with the most current disclosure statement.

Unit Sales Agreement

A declarant (as the seller) must use a unit sales agreement in the sale of a residential unit by the developer. A unit sales agreement is a special sales agreement that is unique to the condominium and to the seller that is prepared by the developer's attorney and submitted to the Agency for approval.

Important Tip: A broker must use a unit sales agreement for the sale of the unit that has been approved by the Real Estate Agency. A broker cannot use a standard OREF form. It is prohibited by law.

When you review a unit sales agreement, you should look for all of the items required under Oregon law, including but not limited to:

- The full amount of the purchase price, including the amount and form of earnest money paid by the purchaser.
- The name and address of the escrow agent to hold the purchaser's funds and a reference to the escrow instructions controlling the escrow.
- If the purchaser's funds are to be invested, the name of the financial institution where the funds will be deposited and to whom any interest earnings will accrue under all possible circumstances.
- The date of closing with any conditions and requirements of closing.
- The closing procedure.
- Any authority of the developer to terminate the sale and, in the case of termination, any forfeiture provisions.
- If the developer specifies any contingency, the date other than closing when all purchaser's funds and interest earnings will be returned to the purchaser if the contingency is not met.
- Provision that the purchaser will recover any funds paid to the developer and any interest earnings upon default by the developer.
- Any rights reserved by the developer to modify the declaration, any supplemental declaration, bylaws, plat or other documents by which the purchaser is or will be bound.
- *Notice to the purchaser of cancellation rights* under ORS 100.730 and 100.740.
- For the sale of *newly constructed units*, any *express warranty* required under ORS 100.185.
- Homebuyer Protection Act.
- Final Agency Acknowledgement.
- Lead-based paint disclosure (if required).

Notice to Purchaser

In addition to the disclosure statement, a developer must provide the prospective purchaser with the declaration and bylaws and must get a receipt for the documents from the purchaser. Further, a unit sales agreement has a "Notice to Purchaser" that gives a residential purchaser the right to cancel the agreement *for any reason for five business days* after whichever of the following is last to occur: (a) signing by the purchaser of the unit sales agreement; (b) signing by the purchaser of the receipt for the disclosure statement, if any; or (c) signing by the purchaser of the receipt for a copy of the condominium declaration and bylaws and any amendments or supplements thereto affecting the unit.

Reservation Agreements

A developer may enter into non-binding reservation agreements at any time. Either party may cancel the agreement for any reason. The developer may take earnest money, but must return it immediately upon termination of agreement by either party.

"Presales" Using Unit Sales Agreement

A developer may enter into binding unit sales agreements before the condominium is created only if the disclosure statement and the unit sales agreement are approved by the Real Estate Agency. These agreements are entered into prior to recordation of condominium declaration, bylaws and plat, but after disclosure statement issued. A presale agreement is binding on the parties, all monies must be placed in escrow subject to escrow agreement; and a seller must use a unit sales agreement and escrow instructions. Before a unit sales agreement is executed, the purchaser must be provided with the following documents:

- Proposed declaration and proposed bylaws
 - Disclosure statement and escrow agreement
- Important Tip: Must keep receipts for document delivered for three years.*

RESALES OF A CONDOMINIUM

Resales of residential condominium unit have different requirements than first sales. A "resale" is the sale of a condominium unit that occurs after the first sale of a residential condominium unit by the declarant.

Following is key information a broker must know for a resale of a residential condominium transaction:

- Unit owners' association assessments (monthly costs).
- Unit owners association reserves (how funded, any new special assessments going to occur?).
- Association management. May use the standard Oregon Real Estate sales agreement form with the "OREF Condo and Townhouse Addendum."
- Must provide the purchaser with the important documents about the unit and the association.
- The "disclosure statement" issued by the Agency is not used. A standard owner's disclosure statement under ORS chapter 105 is used.

If you are unsure or unfamiliar with the process of representing sellers or purchasers of residential condominiums, be sure to seek the advice and oversight of an experienced broker, principal broker or attorney.

Editor's Note: "Board Blog" features the opinions of Real Estate Board members. The views expressed are not necessarily those of the Oregon Real Estate News-Journal, Oregon Real Estate Agency or Agency staff.



Kim Medford, Oregon Real Estate Board member

Board Meeting in Florence

The next Oregon Real Estate Board meeting will be held at the [Florence Events Center](#) on Monday, October 4th at 10:00 a.m. The meeting is hosted by the Central Oregon Coast Board of Realtors.

All [Board meetings](#) are open to the public.

Real Estate Advertising Online

August 31, 2010

Five years ago had a seller asked if you were advertising their property on craigslist, your answer might have been, "Who's Craig and how much is he going to charge me?" Do you remember your confusion the first time you heard someone say, "I'll send you an e-mail." I still laugh when I think about how perplexed I was by my former office manager's excitement when she told us we were all getting "blackberries." It's now my favorite paperweight.

Times change, and so do the rules. Whether it's an e-mail to a prospective client or a posting on Twitter, Facebook or craigslist, just to name a few, it is your advertising. Just like your business card, a real estate flyer or your office stationary, the public needs to know they are dealing with an Oregon licensee.

The Agency has specific rules which must be followed when engaging in any form of advertising. The section dealing with internet advertising is Oregon Administrative Rule 863-015-0125(9):

"(9) Advertising in electronic media and by electronic communication, including but not limited to the Internet, web pages, E-mail, E-mail discussion groups, blogs, and bulletin boards is subject to the following requirements:

- (a) Advertising must comply with all other requirements of this rule;
- (b) Advertising by a licensee must include on its first page:
 - (A) The licensee's licensed name as required in section (3) of this rule;

- (B) The licensed name or registered business name of the principal real estate broker, or property manager; and
- (C) A statement that the licensee is licensed in the State of Oregon.”

Example: craigslist is very popular right now within the real estate industry. Posting is easy and appears online almost immediately. Many licensees use this service to post an ad with a link to their listing or a company web page. A typical posting might read, “Motivated Sellers with Bank Approved Short Sale.” When a visitor clicks on the link to read more, sections (A), (B) and (C), along with all of the other advertising requirements in OAR 863-015-0125, must be met.

When creating any form of advertising, ask yourself the following questions:

Does the online advertising contain my first and last name that I use as a licensee?

Is the proper licensed name or registered business name on my e-mail, posting, web page, etc.?

Does my advertising inform the reader that I am licensed in the State of Oregon?

As with any advertising, always provide your principal broker with hard copies for his or her approval. These documents, along with all other types of advertising, must be kept by the licensee for six years. Now is a good time to double-check your advertising. And while you’re doing that, I need to find my paperweight.



Michael Thornicroft, Regulation Division, Oregon Real Estate Agency

Things to Know About Property Management

August 31, 2010

The statutes relating to property managers, real estate brokers and principal real estate brokers are under Oregon Revised Statutes (ORS) chapter 696. Under ORS chapter 696, the “management of rental real estate” is professional real estate activity and an individual must be a real estate licensee to engage in the management of rental real estate. This chapter contains sections on licensing requirements, exemptions from licensing and an overview of the rules regulating individuals engaged in property management.

The administrative rules relating to the regulation of property managers, real estate brokers and principal real estate brokers who engage in the management of rental real estate are under Oregon Administrative Rules (OAR) Chapter 863, Division 25.

OAR 863-025-0010 defines “property manager” as a real estate licensee authorized to engage in management of rental real estate as defined in ORS 696.010(12).

The administrative rules relating to the regulation of property managers are extensive. A licensee engaged in the management of rental real estate must understand and comply with these rules.

A significant number of rules relate to requirements for handling owner and tenant funds, clients’ trust accounts, security deposit accounts, reconciliation and accounting practices.

The following are but a few examples of statutes and rules of which a property manager must have a thorough knowledge.

1. Management of rental real estate means representing the owner of real estate in the rental or lease of the real estate. By representing the owner, the property manager may be involved in a variety of tasks, including but not limited to: advertising the property for rent or lease; negotiating with and accepting deposits from prospective tenants; advising the owner regarding the rent or lease of the property; holding trust funds or property received. For a more inclusive listing of property manager duties, please refer to ORS 696.010(12)
2. Each property manager must develop, maintain and follow written policies and delegation of authority. Each policy must state the effective date of the policy. Policies must specify the duties, responsibilities, supervision and authority, including any authority to handle funds in a clients' trust account or security deposits account by specific persons (as set out in the rule). [OAR 863-025-0015]
3. A property manager must not engage in the management of rental real estate without a written, unexpired property management agreement between the owner and the property manager. [OAR 863-025-0020(1)]
4. "Clients' Trust Account" means a federally insured bank account labeled "Clients' Trust Account" on all bank records and checks that is established and maintained by a property manager, acting on behalf of the owner under a property management agreement, for depositing, holding and disbursing funds received by the property manager on behalf of the owner, including application fees and application screening fees. [OAR 863-025-0010(5)] For a complete overview of clients' trust accounts, please refer to OAR 863-025-0025, ORS 696.241 and ORS 696.245.
5. "Security Deposits Account" means a federally insured clients' trust account labeled as "Clients' Trust Account – Security Deposits" on all bank records and checks that is established and maintained by a property manager, acting in a fiduciary capacity on behalf of an owner under a property management agreement, for depositing, holding and disbursing security deposit funds. [OAR 863-025-0010(15)]. For a complete overview of security deposits account administrative rule please refer to OAR 863-025-0025 and 863-025-0030.
6. A property manager must maintain all records required under section (1) of OAR 863-025-0035 for a period of six years following the date on which such agreement or document is superseded, terminated, has expired or otherwise ceased to be used in the management of rental real estate. A property manager must also file and maintain legible copies of all tenant rental or lease agreements for six years as required under OAR 863-025-0035.
7. A property manager must prepare and maintain a chronological record of receipts and disbursements or a check register for each client's trust account and each security deposits account in which the manager must record each receipt of funds and each disbursement of funds. OAR 863-025-0040(4) refers to a property manager maintaining a separate clients' trust account for a single owner.
8. Each tenant rental or lease agreement prepared by the property manager for residential real estate must contain, in addition to and not in lieu of any applicable requirements of the Residential Landlord and Tenant Act: the licensed name and business address of the property manager and the name and address of the tenant; the mailing address or unit number of the property being rented or leased; the amount of and the reason for all funds paid by the tenant to the property manager including, but not limited to, funds for rent, conditionally refundable security deposits, and any fees or other charges. [OAR 863-025-0045]
9. A property manager must prepare a legible written receipt for any cash funds received under a property management agreement. [OAR 863-025-0060]
10. All funds, whether in the form of money, checks, or money orders belonging to others and accepted by any property manager while engaged in property management activity, must be deposited prior to the close of business of the fifth banking day following the date of the receipt of the funds into a clients' trust account or security deposits account. The property manager must account for all funds received. [OAR 863-025-0065]

The property manager's fiduciary relationship with the owner by law requires following instructions, being diligent in their duties and using reasonable care to assure the properties are protected and producing results agreed to. This requires constant effort and work at all times.

For a complete overview of statutes and rules governing property management activity, please refer to the Oregon Real Estate Agency's [website](#). Click on the "Statutes & Rules" link and then click on the property management links under Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR).



Donn Barrett, Regulation Division, Oregon Real Estate Agency

Carbon Monoxide Alarm Rules Provide Guidance - Temporary Rules in Effect July 1, 2010

August 31, 2010

The 2009 Oregon Legislature passed House Bill (HB) 3450, the Lofgren and Zander Memorial Act, requiring properly functioning carbon monoxide (CO) alarms be installed in sleeping areas of dwellings with a CO source. CO sources include, but are not limited to heaters, fireplaces, furnaces, appliances or cooking sources using coal, wood, petroleum products, or other fuels emitting CO as a by-product of combustion. Petroleum products include kerosene, natural gas, or propane. Attached garages with doors, ductwork or ventilation shafts connected to a living space are also sources of CO.

The temporary rules for existing structures are effective July 1, 2010. Comments on the temporary rules must be submitted by October 1. The final rules are scheduled to be filed in December 2010.

“We worked with citizen advocates, the Oregon fire service, representatives from health, manufactured housing, multifamily housing, home builders, sellers, and renters to create rules aimed at successful compliance,” advises State Fire Marshal Randy Simpson. “We all want to protect the public from carbon monoxide poisoning.”

Who does what, when? HB 3450 specifies implementation dates:

JULY 1, 2010 – Office of State Fire Marshal (OSFM) Administrative Rules effective date.

JULY 1, 2010 – For all new rental agreements, landlords must provide properly functioning CO alarms for rental dwelling units with, or within a structure containing, a CO source.

APRIL 1, 2011 – Landlords must provide properly functioning CO alarms for all rental dwelling units with, or within a structure containing, a CO source.

APRIL 1, 2011 – Home sellers of one- and two family dwellings, manufactured dwellings, or multifamily housing units containing a carbon monoxide source must have one or more properly functioning CO alarms before conveying fee title or transferring possession of a dwelling.

APRIL 1, 2011 – All new construction of one- and two family dwellings, manufactured dwellings, or multifamily housing units containing a carbon monoxide source must have one or more properly functioning CO alarms before conveying fee title or transferring possession of a dwelling.

The new rules and information about them may be found at:
http://www.oregon.gov/OSP/SFM/CommEd_CO_Program.shtml.

Donna Disch and Rich Hoover, Office of State Fire Marshal

New Continuing Education Law Starts January 1, 2011

If you are a broker, principal broker or property manager, you have new continuing education requirements for license renewals.

[Read more...](#)

New Principal Broker Exam Starting January 1, 2011

If you or someone you know will be applying for a principal broker exam on or after January 1, 2011, you should be aware that applicants will now need to take and pass a principal broker license exam.

To avoid the license exam requirement, applicants for a principal broker license meet all the current requirements and make sure the Agency receives the application no later than December 31, 2011.

[Full text of Senate Bill 640...](#)

Short Sale Negotiators and Foreclosure Consultants Frequently Asked Questions

In response to the current real estate market, a Foreclosure Fraud Symposium was held in March 2010. The Oregon Real Estate Agency (Agency), the Oregon Department of Justice, and the Oregon Department of Consumer and Business Services analyzed the key issues which were raised by the licensees at the symposium.

The three agencies then generated a list of frequently asked questions regarding the often complex area of short sales and foreclosures. The answers to these common questions can be found on the "Agency's web page". [http://www.oregon.gov/REA/docs/Short_Sale_FAQs.pdf] While the list is not exhaustive, it is very useful for identifying the key concepts and rules which every licensee should be aware.

[Read the pdf...](#)

Ways to Submit Licensing Forms

In order to protect the integrity of your personal information, such as your credit card number, the Agency does not accept licensing forms by e-mail. While the Agency does everything possible to create the most secure system possible, there are still risks involved in the transmission of e-mails.

Many licensing forms are accepted by fax, and all forms are accepted by regular mail. If you are unsure if you can fax a specific form, please call the Agency's Licensing Division at (503) 378-4170, selection 2.

Office Closure Reminder

The Real Estate Agency office, along with most other state offices, will be closed Friday, September 17.

The current recession has reduced state revenues, and has forced the legislature to make deep cuts in agency budgets. Coping with these cuts requires us to close our office on [certain days](#). Our employees will take unpaid time off on those days. We apologize for any inconvenience these closures might cause, and we look forward to restoration of a full work schedule when the economy improves.

Agency Division Reports - September 2010

August 31, 2010

Updates from the managers of each of the Real Estate Agency's divisions.

ADMINISTRATIVE SERVICES DIVISION

Manager: Erica Kleiner

Overview

The Administrative Services Division includes two full-time employees and four part-time (temporary) employees and acts as support to the agency. This division manages budget preparation, accounting, purchasing and contracting, inventory control, facilities, payroll and personnel contacts, and special projects.

Program Changes

The division is currently recruiting for a full-time, limited-duration, Policy Analyst position. This position will focus on analyzing and evaluating the effectiveness of agency policies and programs, as well as, interpreting and reviewing financial results including evaluating financial data and recommending actions. An announcement on the chosen candidate will be made in the next Oregon Real Estate News-Journal.

Current and Future Projects

The division has been working with the Department of Administrative Services (DAS) and Legislative Fiscal Office in preparation for the Real Estate Agency's 2011-2013 Budget. The Agency's 2011-13 Budget was submitted to DAS on August 2. The Agency is anticipating the presentation of its budget in a Public Hearing to the appropriate legislative committee soon after the convening of the 2011 Regular Legislative Session.

The division is also beginning the initial phases of a new Request for Proposals (RFP) process to find a vendor for its examination services. This procurement will include both the administration and development of real estate exams. A committee comprised of both Agency staff and Real Estate Board Members will be meeting in September to plan out the scope of the upcoming RFP process.

EDUCATION DIVISION

Manager: Stacey Harrison

Division Overview

The Education Division has three staff members. The Division develops real estate educational guidelines, approves pre-license and post-license courses, certifies continuing education providers, develops and maintains exams and test items, develops informational publications and websites, and conducts compliance reviews.

Workload and Activity Indicators

Licensing exam year-to-date totals for June 2010 showed a 15% increase in the number of exams administered for the same period in 2009. April 2010 marked the first time an increase occurred since 2005. The Division responds to an average of 500 inquiries each month including questions on licensing and continuing education requirements, real estate regulatory requirements and the Agency's complaint process.

Program Changes

The Division is responsible for the implementation of Senate Bill 640, which changes the continuing education requirements of real estate licensees and principal broker licensing requirements. On July 1, 2010 permanent administrative rules to implement Senate Bill 640 went into effect, allowing continuing education providers to become certified by the Agency. As of August 20, 2010 the Division has certified 70 continuing education providers. Beginning January 1, 2011 licensees must take continuing education courses from a certified continuing education provider. Please check our website for the current list of certified providers.

In April, the Division completed development and testing of an electronic version of the compliance review. Since then, 74 compliance review participation request letters were mailed to all principal brokers in Hood River, Malheur and Baker Counties. Information received will be analyzed to determine areas where more education may be needed for licensees. Future plans include developing a self-administered property manager compliance review.

LAND DEVELOPMENT DIVISION

Manager: Laurie Skillman

Division Overview

The Land Development Division has two staff members and reviews and approves land development filings, including condominiums, out-of-state subdivisions, timeshares, membership campgrounds, and manufactured dwelling subdivisions. The majority of the work of the division is done for condominium filings.

Program Changes

Recently, the division has received a number of filings for successor declarant banks who have taken over some or all the units in a condominium through a deed in lieu of foreclosure or other means. Banks must file a number of documents with the Agency, including a disclosure statement if the bank owns residential units. The bank may not sell a residential unit until the disclosure statement is approved by the Agency.

The Agency recently signed on to the ARELLO automated timeshare registry (ATR). The ATR is a centralized electronic repository for timeshares filed by the larger timeshare companies. Timeshares are usually registered in a number of states. The ATR allows timeshare companies to fill all documents for all jurisdictions electronically. The states review and approve these timeshares electronically. The purpose of the system is to reduce the significant costs of filing the same documents in a number of states and to streamline the review and approval process.

LICENSING DIVISION

Manager: Laurie Hall

Division Overview

The Licensing Division has five staff members who are responsible for public and licensee information services, real estate, property management and escrow licensing transactions and the registration of real estate business names. The staff is also responsible for reception.

Workload and Activity Indicators

There are over 26,000 individuals and facilities throughout the state of Oregon that are licensed and registered with the Agency. This generates an average of 2,000 transactions and 3,500 phone calls each month that are received and must be handled by the Licensing Division. With that in mind, please remember that normal processing time (receiving money, input into database and mailing out letter or license) for most transactions is 7-10 days. They are all processed as quickly as possible in the order that they were received.

[2010 Licensing Statistics](#)

INFORMATION TECHNOLOGY DIVISION

Manager: Greg DeMaderios

Division Overview

The Information Technology (I.T.) Division is responsible for the management of the Agency's resources for communication, electronic commerce and user support. This includes managing the Agency's computer network, phone network, information assets, and security system for all technology resources.

Program Changes

I.T. has been separated into a separate division, reporting directly to the Deputy Commissioner.

Progress on Current and Future Projects

I.T. will be upgrading the Agency's Microsoft Exchange Server 2003 to Microsoft Exchange Server 2010 in the near future. Chris Erich attended training for the upgrade and is in the planning stages now. I.T. also continues to work closely with the Education Division on upgrading the Agency website and implementing an electronic-only version of the *Oregon Real Estate News-Journal*.

REGULATION DIVISION

Manager: Selina Barnes

Division Overview

The Regulation Division currently has eleven staff members, with one vacant position. This division receives complaints and determines validity and assignment for investigation. Investigators gather facts, complete report and submit to Manager for review. The Manager determines whether the evidence supports charging a person with a violation of Agency statutes or administrative rules.

CTA Mail-in Audits

The function of Client Trust Account (CTA) mail-in audits has been reassigned to the Regulation Division from the Education Division. Review of this data is critical for consumer protection, providing early financial information to the Agency that may assist in stopping mishandling of consumer funds by a real estate licensee. Any issues arising from an audit may have a regulatory impact on a real estate licensee. Moving this program to the Regulation Division is a more efficient and effect way of managing this important program, which is clearly a regulatory function.

Financial Investigator Lead Worker

Gae Lynne Cooper has accepted the Lead Worker position. As Lead Worker, Gae Lynne will analyze investigative methods, procedures and policies and make recommendations to manager. She will provide coaching to investigators about their investigative performance and report writing, as well assist investigators as needed in their investigations. Gae Lynne will develop and provide training and assist the Manager in identifying, arranging and scheduling training for Regulations staff from outside sources.

Editor, Oregon Real Estate News-Journal

Administrative Actions

The Agency is required by Oregon Real Estate License Law to publish disciplinary actions. (ORS 696.445)
Administrative actions from May 25, 2010 to August 24, 2010 are as follows:

Brainard, Miriam Kathleen
Chamberlin, Susan R.
Draper, Jody
Florom, Jinean Alice
Frontino, Deborah
Jacobsen, Lisa Marie
Keener, Toni Marlene
Lindsey, Christopher
Long, Linda L.
Mills-Schremm, Susan E.
Mitzel, Debra K.
Nofziger, Devon L.
Nofziger, Veronica K.
Osmon, Richard J. Sr
Owens, A. Eric
Smith, Kenneth James
Stafford, Barbara
Terry, Sherman D.
West, Katherine M.
Whelchel, Vicki B.
Word, Betty D.

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Property Manager's
5 License of

6
7 MIRIAM KATHLEEN BRAINARD
8

ORDER ON DEFAULT

9
10 1.

11 1.1 On March 23, 2010, the Real Estate Commissioner issued, by certified mail, a
12 notice of intent to revoke the real estate property manager's license of Miriam Kathleen
13 Brainard (Brainard). The Real Estate Agency (OREA) sent the notice of intent to Brainard's
14 last known address of record with the OREA. The notice of intent was also mailed to Brainard
15 by regular first class mail in a handwritten envelope.

16 1.2 Neither the certified mailing nor the first class mailing have been returned to
17 OREA.

18 1.3 Over twenty (20) days have elapsed since the mailing of the notice issued in this
19 matter and no written request for hearing has been received.

20 1.4 Copies of the entire investigation file are entered into the record and made a part
21 of this order as is all information in the administrative file relating to the mailing of notices and
22 any responses received.

23 2.

24 Based upon the foregoing and upon a review of the above described investigation
25 reports, documents and files, the Real Estate Commissioner finds:

26 2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is
27 properly served when deposited in the United States mail, registered or certified mail,
28 addressed to the real estate licensee or to any other person having an interest in a proceeding
29 before the Commissioner at the licensee's or other person's last known address of record with
30 OREA.

1 2.2 Brainard's last known address of record with OREA was 4611 SE Center St,
2 Portland OR 97206.

3 2.3 A certified mailing of the notice of intent was mailed to Brainard at her last known
4 address of record on March 23, 2010.

5 2.4 The mailing in the handwritten envelope has not been returned to OREA. In
6 accordance with ORS 40.135(1)(q), there is a presumption that the mailing properly addressed
7 and placed with the U.S. Postal Service was delivered. That presumption has not been
8 overcome by any evidence.

9 2.5 Over twenty (20) days have elapsed since the mailing of the notice and no
10 written request for a hearing has been received.

11 FINDINGS OF FACT

12 CONCLUSIONS OF LAW

13 3.

14 3.1 Brainard was first licensed by OREA on December 17, 2007 and was authorized
15 to engage in property management activity in her own name. Brainard did not register a
16 business name with OREA.

17 3.2 On January 29, 2008, OREA received a complaint from Stephen and Diana
18 Sykes against Brainard regarding general mismanagement of four rental properties.

19 3.3 The four rental properties owned by the Sykes that were managed by Brainard
20 are identified as follows: 1519 Monroe Street, Oregon City (Syke01); 1513 Monroe Street,
21 Oregon City (Syke02); 802 Washington Street, Oregon City (Syke03); and 8056 SE Harold St,
22 Portland Oregon (Syke04).

23 3.4 In 2007, Brainard began conducting property management business under the
24 name of Barrington Management Services (BMS). Brainard did not register BMS with OREA
25 as a business name. **Brainard's conduct violates ORS 696.026(1); ORS 696.301(3), (12);**
26 **ORS 696.361; OAR 863-015-0095(1)-(5).**

27 3.5 As part of its investigation, on May 28, 2008 OREA instructed Brainard to provide
28 copies of various documents regarding the management of the Sykes properties, including
29 Inventory and Authorization Forms to examine the BMS client trust accounts (CTA). Brainard
30 did not provide any of the requested records or otherwise allow OREA access to the requested

1 records or accounts. **Brainard's failure to provide the requested records violates ORS**
2 **696.241(2), (3), OAR 863-025-0025, OAR 863-025-0035; ORS 696.301(3).**

3 3.6 OREA obtained various documents regarding the Sykes properties from Sykes
4 and from Brainard. These records indicated that the tenant security deposits were maintained
5 in the Ashton Property Management (APM) CTA instead of a BMS security deposit CTA.

6 **Brainard's failure to maintain the tenant security deposits in a security deposit CTA**
7 **account violates ORS 696.301(3); OAR 863-025-0025(2).**

8 3.7 A property manager must not engage in property management activity without a
9 written agreement between the property manager and the property owner. Brainard was
10 managing the Sykes' properties at 1513 and 1519 Monroe Street without a written property
11 management agreement in her name. Brainard used the property management agreement
12 that was signed between the Sykes and APM. **Brainard's failure to comply with these**
13 **requirements violates OAR 863-025-0020, ORS 696.301(3). In addition, the tenants were**
14 **not notified that Brainard was managing the Sykes' properties, in violation of OAR 863-**
15 **025-0070, ORS 696.301(3).**

16 3.8 On January 18, 2008 there were two checks delivered to Sykes written on an
17 APM CTA through Wells Fargo Bank. The account that the checks were written from was not
18 on file with the OREA as a CTA in use by APM. **Brainard's failure to file a form identifying**
19 **the Wells Fargo CTA violates ORS 696.241(2); ORS 696.301(3).**

20 3.9 Brainard managed the property located at 8056 SE Harold St without a written
21 property management agreement. **Brainard's failure to have a written property**
22 **management agreement violates ORS 696.301(3); OAR 863-025-0020(1).**

23 3.10 The general ledgers showed that Brainard paid \$538.25 in syke02 expenses
24 from the syke01 and syke03 CTA. There was no provision in the property management
25 agreements providing for transfer of funds among different accounts. **Brainard's transfer of**
26 **funds as alleged violates ORS 696.301(3); OAR 863-025-0025(13)(a).**

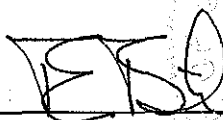
27 3.11 Tenant security deposits were deposited into the Sykes CTAs but were not
28 transferred to the tenants' security deposit CTA. **Brainard's failure to deposit the tenant**
29 **security deposits into the security deposit CTA violates ORS 696.301(3); OAR 863-025-**
30 **0025(3); OAR 863-025-0030(1).**

ORDER

IT IS HEREBY ORDERED that Brainard's property manager's license is revoked, with said revocation to commence and be effective on the 1st day of May 2010.

Dated this 14 day of April, 2010.

OREGON REAL ESTATE AGENCY



GENE BENTLEY
Real Estate Commissioner

DATE of service: 4-14-10

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this order. Judicial review is pursuant to the provisions of ORS 183.482.

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate Broker's
5 License of
6
7 SUSAN R. CHAMBERLIN
8

STIPULATED FINAL ORDER

9
10 The Real Estate Agency (OREA) and Susan R. Chamberlin (Chamberlin) do hereby
11 agree and stipulate to the following:

12 FINDINGS OF FACT
13 CONCLUSIONS OF LAW

14 1.

15 1.1 At all times mentioned herein, Chamberlin was licensed as a real estate broker
16 with Century 21 Best Realty, Inc.

17 1.2 On February 23, 2010, OREA received a complaint from Kimbal Kidwell (Kidwell)
18 alleging: (1) that he had been told that he had to offer \$320,000.00 on a property listed for
19 \$305,000.00 because he wanted to use a Veterans Administration (VA) loan to finance the
20 purchase; (2) that a counter-offer was backdated; (3) that he could not receive all pages of the
21 seller's additional property disclosure until after he had signed accepting the additional
22 disclosure; (4) that he was not made aware that 4.5 acres of the 5.1 total acres was tidelands
23 and unusable until after he made his offer; (5) that the taxes were \$4,067.38 per year not
24 \$3,999.00 as advertised and were scheduled to go up; (6) that the property was in a flood zone
25 when he had been told it was on a bluff; (7) that Vicki Whelchel (Whelchel), a broker with The
26 Prudential Seaboard Properties, had looked into his finances without permission; and (8) that
27 he was pressured to withdraw his offer so that a higher offer that had been received after his
28 could be accepted.

29 1.3 On November 20, 2009, Mildred Johnson (Johnson) listed property she owned at
30 91165 Cape Arago Highway in Coos Bay, OR with Whelchel. The listing price was \$305,000.

1 1.4 Kidwell was living in California and Chamberlin was representing Kidwell as the
2 buyer's broker. According to Chamberlin, Kidwell asked her to write a full price offer for the
3 subject property. Chamberlin suggested that Kidwell offer \$320,000 for the property as he did
4 not want to pay for any repairs, closing costs, or pre-pays. Chamberlin said that she talked to
5 Kidwell's lender and asked how to make the offer work with a VA loan. Chamberlin said that
6 Kidwell's lender advised Chamberlin that Kidwell was qualified for a \$320,000 loan and that
7 \$15,000 was the maximum increase allowed over the sales price. Kidwell's lender denied
8 making that statement. Chamberlin advised Kidwell that, based upon advice of his lender, he
9 needed to make a \$320,000 offer to make the VA loan work.

10 **Violation:** By stating that the Kidwell offer needed to be increased to \$320,000 based
11 upon advice from Kidwell's lender when in fact the lender did not render such advice,
12 Chamberlin demonstrated untrustworthiness in performing an act for which she is required to
13 hold a license in violation of ORS 696.301(12).

14 1.5 Line 52 of Kidwell's offer stated in part, "Seller to credit buyer up to 6% for
15 buyer's closing costs, pre-pays, and repairs." Chamberlin advised Kidwell that if the costs
16 were less than \$15,000, then the amount of Kidwell's loan and the sales price would go down.
17 Chamberlin did not include language in the Kidwell offer that would reduce the sales price if
18 the buyer's closing costs were less than 6% of the sales price.

19 **Violation:** By failing to include language in the Kidwell offer that would reduce the
20 sales price if the buyer's closing costs were less than 6% of the sales price, Chamberlin failed
21 to be loyal to the buyer by not taking action that is adverse or detrimental to the buyer's
22 interest in violation of ORS 696.810(3)(c) and is subject to sanction in accordance with ORS
23 696.301(3).

24 1.6 Chamberlin emailed Kidwell the seller's property disclosure statement. In the
25 first email, Chamberlin included one page only of the five page document. The other four
26 pages were referenced, but not provided to Kidwell. Chamberlin told Kidwell that Kidwell
27 needed to sign the one page right away, so he did. After Kidwell signed the seller's property
28 disclosure, he received the remaining four pages. The additional four pages contained a
29 "grandfather" easement for the construction of a boathouse, a plat showing the mean high
30 water line, and a note from the title company that supplied a copy of the easement.

1 **Violation:** By asking Kidwell to sign and accept the additional disclosure before she
2 sent Kidwell the complete document, Chamberlin demonstrated incompetence or
3 untrustworthiness in performing an act for which she is required to hold a license in violation of
4 ORS 696.301(12).

5 1.7 On December 4, 2009 Kidwell advised that he wished to withdraw his offer and
6 the transaction was terminated.

7 2.

8 2.1 OREA reserves the right to investigate and pursue additional complaints that
9 may be received in the future regarding this licensee.

10 2.2 In establishing the violations alleged above, OREA may rely on one or more
11 definitions contained in ORS 696.010.

12 STIPULATION & WAIVER

13 I have read and reviewed the above findings of fact and conclusions of law which have
14 been submitted to me by OREA and further, the order which follows hereafter. I understand
15 that the findings of fact, conclusions of law and this stipulation and waiver embody the full and
16 complete agreement and stipulation between OREA and myself. I further understand that if I
17 do not agree with this stipulation I have the right to request a hearing on this matter and to be
18 represented by legal counsel at such a hearing. Hearings are conducted in accordance with
19 the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and
20 Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily
21 waive my rights to a hearing, to representation by legal counsel at such a hearing, and to
22 judicial review of this matter.

23 I hereby agree and stipulate to the above findings of fact and conclusions of law and
24 understand that the order which follows hereafter may be completed and signed by the Real
25 Estate Commissioner or may be rejected by the Real Estate Commissioner, in which case an
26 amended notice of intent may be issued in this matter. I understand that, in accordance with
27 the provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real
28 Estate News Journal.

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ORDER

IT IS HEREBY ORDERED that Chamberlin be, and hereby is, reprimanded.

IT IS SO STIPULATED:

IT IS SO ORDERED:



SUSAN R. CHAMBERLIN

GENE BENTLEY

Real Estate Commissioner

Date 7/5/2010

Date 7-12-10

DATE of service: 7-20-10

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate Broker's
5 License of
6
7 JODY L. DRAPER
8

)
ORDER ON DEFAULT

9
10 1.

11 1.1 On February 16, 2010, the Real Estate Commissioner issued, by certified mail, a
12 notice of intent to levy a civil penalty on Jody L. Draper (Draper). The Real Estate Agency
13 (OREA) sent the notice of intent to Draper's last known address of record with the OREA as
14 well as his licensed address. The notice of intent was also mailed to Draper by regular first
15 class mail in a handwritten envelopes.

16 1.2 The certified mailing to Draper's address of record was returned with the postal
17 notation "unclaimed". The certified mailing to Draper's licensed address has not been returned
18 and the return receipt card has not been received. Neither first class mailings in handwritten
19 envelopes have been returned.

20 1.3 Over twenty (20) days have elapsed since the mailing of the notice issued in this
21 matter and no written request for hearing has been received.

22 1.4 On March 8, 2010, Draper left two voicemail messages for Kris Ebelmesser with
23 OREA. Both calls were returned. Draper did not return the messages.

24 1.5 Draper later contacted OREA and a settlement conference was held on Friday,
25 April 2, 2010 where Draper agreed to a \$600 civil penalty for the subject violations. On April 5,
26 2010, a stipulated order was sent to Draper for his signature. On April 22, 2010, a reminder
27 letter was sent to Draper to sign and return the stipulated order. Draper has not signed and
28 returned the proposed stipulated order and no further communication has been received from
29 Draper.

30 ///

1 1.6 Copies of the entire investigation file are entered into the record and made a part
2 of this order as is all information in the administrative file relating to the mailing of notices and
3 any responses received.

4 2.

5 Based upon the foregoing and upon a review of the above described investigation
6 reports, documents and files, the Real Estate Commissioner finds:

7 2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is
8 properly served when deposited in the United States mail, registered or certified mail,
9 addressed to the real estate licensee or to any other person having an interest in a proceeding
10 before the Commissioner at the licensee's or other person's last known address of record with
11 OREA.

12 2.2 Draper's last known address of record with OREA was 3776 NW 26th Ave,
13 Albany OR 97321. Draper has been licensed with Keller Williams Realty, Eugene and
14 Springfield at 2644 Suzanne Way, Eugene OR 97401, since May 1, 2009.

15 2.3 Certified mailings of the notice of intent were mailed to Draper at his last known
16 addresses of record on February 16, 2010.

17 2.4 The mailings in the handwritten envelopes have not been returned to OREA. In
18 accordance with ORS 40.135(1)(q), there is a presumption that the mailing properly addressed
19 and placed with the U.S. Postal Service was delivered. That presumption has not been
20 overcome by any evidence.

21 2.5 Over twenty (20) days have elapsed since the mailing of the notice and no
22 written request for a hearing has been received.

23 FINDINGS OF FACT

24 3.

25 3.1 Prior to March 1, 2009, Draper was licensed as a real estate broker with Keller
26 Williams Realty, Eugene and Springfield.

27 3.2 Draper's license expired on February 28, 2009 and was not renewed until May 1,
28 2009.

29 3.3 During the time Draper's license was expired, March 1, 2009 to April 30, 2009,
30 62 days, Draper continued conducting professional real estate activity as if actively licensed.

1 CONCLUSION OF LAW

2 By continuing to conduct professional real estate activity for 62 days after his license
3 expired and before renewing same, Draper violated ORS 696.020(2) and is subject to
4 discipline or civil penalty pursuant to ORS 696.301(3) and ORS 696.990(1) to (9).

5 ORDER

6 IT IS HEREBY ORDERED that, pursuant to ORS 696.990(1) to (9) and based upon the
7 violation set forth above, Draper pay a civil penalty of \$1,500, said penalty to be paid to the
8 General Fund of the State Treasury by paying the same to OREA. The civil penalty is
9 computed in accordance with ORS 696.990(4) and (8) in that each 30-day period of unlicensed
10 activity is considered one violation. In this instance, there were two 30-day periods of
11 unlicensed activity.

12
13 Dated this 10th day of May, 2010.

14
15 OREGON REAL ESTATE AGENCY

16
17 
18 _____
19 GENE BENTLEY
20 Real Estate Commissioner
21

22 DATE of service: 5-11-10

23
24 NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by
25 filing a petition for review within 60 days from the date of service of this order. Judicial review
26 is pursuant to the provisions of ORS 183.482.

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Property Manager's
License of

JINEAN ALICE FLOROM

FINAL HEARING ORDER

This matter came up for hearing on April 12 and 13, 2010 before Ken L. Betterton, Administrative Law Judge (ALJ), Office of Administrative Hearings, at the hearing room of the Real Estate Agency, Salem, Oregon. The Real Estate Agency was represented by Raul Ramirez, Assistant Attorney General ("Ramirez"). Jinean Alice Florum (Florum) appeared on her own behalf, and was not represented by counsel.

The ALJ issued a Proposed Order on May 13, 2010. Florum filed exceptions to the ALJ's proposed order on June 11, 2010 after being allowed by an extension.

The Commissioner has reviewed the Proposed Order and exceptions and does not find them persuasive. Licensee's exceptions consist of no more than argument about what the evidence in the case establishes. In addition, the exceptions include many statements that were not in evidence in the record.

Based on the foregoing, the Commissioner adopts and incorporates the Proposed Order as the Final Order as set forth below:

HISTORY OF THE CASE

On or about April 20, 2009, the Oregon Real Estate Agency (OREA) issued a Notice of Intent to Revoke Property Manager's License to Jinean Alice Florum (Licensee). Licensee filed a timely request for hearing.

OREA referred the matter to the Office of Administrative Hearings (OAH) on July 6, 2009. The case was assigned to Senior Administrative Law Judge (ALJ) Ken L. Betterton.

A telephone pre-hearing conference was held on August 25, 2009. Assistant Attorney General (AAG) Raul Ramirez represented OREA. Licensee was represented by Attorney Jack Graham. An in-person hearing was scheduled for January 19 and 20, 2010. Jack Graham withdrew as attorney for Licensee on or about December 15, 2009.

Another telephone pre-hearing conference was held on January 19, 2010. AAG Raul Ramirez represented OREA. Licensee appeared *pro se*. Licensee requested to postpone the hearing to give her time to hire another attorney. I granted the request. An in-person hearing was scheduled for April 12 and 13, 2010.

On March 8 and 9, 2010, Licensee filed various motions and a request for subpoenas to be issued by the OAH. OREA filed a response on March 12, 2010 opposing Licensee's motions. On March 17, 2010, I issued an order denying Licensee's motions and her request to have subpoenas issued by the OAH.

On March 31, 2010, Licensee filed a motion to postpone the hearing to give her more time to hire an attorney. OREA opposed the motion. On April 4, 2010, I issued an order denying Licensee's request to postpone the hearing.

A hearing was held in Salem, Oregon on April 12 and 13, 2010. OREA was represented by AAG Raul Ramirez. Licensee appeared *pro se*. Robert Pierce, OREA Investigator, and Licensee, testified for OREA. Licensee also testified on her own behalf.

The record closed on April 13, 2010, and the matter was taken under advisement.

ISSUES

- (1) Whether Licensee committed violations of ORS 696.301.
- (2) If Licensee committed violations of ORS 696.301, should her real estate property manager's license be revoked under ORS 696.396(2)(c)(A), (B), or (C)?

EVIDENTIARY RULING

Exhibits A1 through A47, offered by OREA, were admitted into evidence without objection. Pleading documents P1 through P14, offered by OREA, were also made a part of the record.

Licensee's Exhibits 5 through 12, 14 through 17, 19 and 20, 21 through 24, and 26 through 28, offered by Licensee, were admitted into evidence without objection. Licensee's Exhibits 1 and 2 were admitted into evidence over OREA's objection of a lack of foundation and relevancy. Licensee withdrew her Exhibit 13. Exhibit 25 was not admitted into evidence because it was not relevant. (Licensee did not submit any exhibits marked 3, 4 or 18.)

FINDINGS OF FACT

(1) Licensee obtained her Oregon real estate property manager's license through OREA in February 2006. She also incorporated her business, Property Management Services of Oregon (PMSO), 115 Elm Street, Suite 13, La Grande, Oregon 97850, in February 2006, and started shortly thereafter to take on clients to manage and rent their real properties. Licensee has been the sole owner and shareholder of PMSO. She has performed all the property management duties herself; she has never had any employees. (Licensee's testimony.)

(2) Licensee maintained three bank checking accounts for PMSO: A business operating account; a client trust account, into which she deposited rents received from rentals, and from which she paid expenses for clients who wanted her to pay the bills on their rentals for them; and a client security deposit account, into which she deposited only security deposits from tenants, and from which she would refund any security deposit money due the tenant upon termination of the rental agreement. (Licensee's testimony.)

(3) On July 25, 2007, Licensee, through PMSO, entered into a written Agreement to Manage and Lease Real Estate with Lyndall S. Shick (Shick). (Ex. A4.) Licensee and Shick had known each other socially prior to them entering into their agreement. Shick had been managing her own rental units, but due to some health issues decided to hire Licensee and PMSO to take over managing her properties. (Licensee's testimony.)

(4) The agreement with Shick covered five separate parcels of real estate that Shick owned in the La Grande area. Two of the addresses each had two separate living spaces that were rented out separately, 606 and 606½ Main Avenue, La Grande, and 908 and 908½ N Avenue, La Grande. The other three addresses were 405 M Avenue, 1912 N Avenue, and 1503 6th Avenue, La Grande, for a total of seven different rentals. (Ex. A4 at 1-2.) Licensee,

with the assistance of an attorney who prepared a master property management agreement, would modify the property management agreement for each particular client. (Licensee's testimony.)

(5) Licensee did not include in Shick's property management agreement an identifying code for each property that matched the codes used by PMSO in the owner's ledgers. Licensee did not include in Shick's property management agreement a disclosure regarding the disposition of records upon termination of the agreement. Licensee did not include in Shick's property management agreement a statement that the property manager shall disclose the use of employees or businesses where the property manager has a pecuniary interest. (Ex. A4; Robert Pierce's testimony.) An identifying code for each property was required to be in the property management agreement by OREA administrative rules. The purpose of the rule was to facilitate tracking the financial activity for an owner's individual properties. A disclosure statement concerning disposition of financial records upon termination of a property management agreement was required to be in the agreement by OREA administrative rules. The purpose of the rule was to facilitate the orderly transfer of records upon the termination of a property management agreement. A disclosure statement in the property management agreement that the property manager will disclose the use of employees or businesses where the property manager has a financial interest was required by OREA administrative rules. The purpose of the disclosure statement was to ensure that a property owner would know when a property manager had an additional financial interest in work being done on their properties. (Robert Pierce's testimony.)

(6) On July 26, 2007, Licensee prepared a written addendum to add 65199 Courtney Lane, Summerville, Oregon to the property management agreement. (Ex. A5.) This property was Shick's personal residence. Licensee prepared the addendum on her own without consulting an attorney. The addendum was prepared to allow PMSO to pay bills on Shick's residence from the proceeds of the rental properties. (Licensee's testimony.) The addendum also stated that Shick requested assistance with administrative work in order to obtain refinancing on three of the rental properties. The addendum stated that a rate of \$15 per hour would be charged to Shick for the administrative assistance. Licensee signed the addendum, but did not have Shick sign it. (Ex. A5 at 2.) Licensee gave Shick a copy of the addendum.

(Licensee's testimony.) OREA administrative rules required that an addendum to the property management agreement had to be signed by the property owner. (Robert Pierce's testimony.)

(7) After Licensee took over management of Shick's properties, Shick's income from her rentals began to drop. The August 2007 accounting showed the normal \$1,800 income. The September income dropped to \$1,600. In October, Licensee told Shick that she would need to put in an additional \$1,900 in order to pay the mortgage on Shick's personal residence. Shick did not receive an accounting from Licensee for October or November 2007. (Ex. A1 at 8.)

(8) Shortly after signing the property management agreement, Licensee and Shick discussed refinancing four of the properties so that Shick could use the equity in her properties to upgrade them and to pay off the mortgage on her personal residence. Because of Shick's health problems and anticipated reduction in her income from employment, Shick was looking to increase income from her rental properties. Shick decided to go forward with the refinancing project. (Ex. A1 at 2-3; Licensee's testimony.)

(9) Licensee introduced Shick to Kellie Sams (Sams), a mortgage broker, to help arrange the refinancing. Problems arose with two of the loans and Sams changed and raised the fees she was charging for her services. Shick decided not to proceed with two of the refinancing loans. Some of the funds from the two loans that did close were to be used to pay contractors that Licensee had hired to work on the properties. The bids from the contractors totaled approximately \$22,000. Licensee received a total of \$37,122 from the loan proceeds to pay the contractors. Licensee never gave Shick an accounting for the \$37,122. Shick did not approve any of the work done by the contractors. (Ex. A1 at 2-3.) The property management agreement provided that Shick had to approve any repairs over \$150. (Ex. A4 at 5.)

(10) The settlement statement for the refinance of 606 and 606½ S Main Street showed a payment of \$18,375 to PMSO. That sum was wired directly from the title insurance company to PMSO's operating account on November 2, 2007. (Ex. A6 at 4.) The settlement statement for the refinance of 405 M Avenue showed a payment of \$18,935 to PMSO. That sum was wired directly from the title insurance company to PMSO's business operating account on November 2, 2007. (Ex. A8 at 4.) Those two checks, totally \$37,310, were wired to PMSO's

business operating bank account from the title insurance company at Licensee's direction. (Ex. A10 at 2.)

(11) The property management agreement between Licensee and Shick provided that the agreement could be terminated by either party by a 30-day written notice to the other party. (Ex. A4 at 4.) On November 9, 2007, Shick mailed a certified letter dated November 10, 2007, to Licensee's correct business mailing address, to terminate the agreement. The letter was returned to Shick by the United States Postal Service stamped, "Return to sender, unclaimed, unable to forward." (Robert Pierce's testimony; Ex. A12.) Shick sent the November 9 letter to Licensee again on November 27, 2007 via fax and e-mail. (Ex. A13.) Licensee had left the La Grande area on November 14 or 15 on personal business. Licensee returned to La Grande from her personal business on November 28, 2007. Licensee received Shick's faxed and e-mailed letters when she returned. (Licensee's testimony.)

(12) On November 29, 2007, Licensee sent an e-mail to Shick acknowledging receipt on November 29 of Shick's notice to terminate the agreement. Licensee informed Shick in the e-mail that she considered the notice to terminate effective on December 29, 2007, *i.e.*, 30 days from November 29, the date Licensee considered the notice to terminate to have been given. (Ex. A14.)

(13) Shick retained an attorney by early December 2007 to get the missing statements for October and November 2007, the keys to her properties, and rental agreements with tenants from Licensee. Shick's attorney tried to get a final accounting from Licensee in December 2007 and January 2008. (Exs. A15 and A16.) In February 2008, Licensee provided Shick's attorney with a disk that contained accounting records. Shick provided the statements and information on the disk to her certified public accountant (CPA). The CPA informed Shick that the records were incomplete and that the CPA could not trace where all the money went. Shick's attorney made several additional attempts to get all the records from Licensee through Licensee's attorney, but the attempts were unsuccessful. (Ex. A20.)

(14) Shick hired an accountant to prepare her income tax return for 2007. In reconciling the cash Shick received from PMSO with the cash disbursements by PMSO, the accountant found that \$14,933.45 could not be accounted for. Licensee did not provide Shick

with any financial information for November 2007, or for any documentation for any administrative expenses that were paid. (Ex. A20.)

(15) On January 17, 2008, Shick filed a written complaint with OREA against Licensee. Shick accused Licensee of violating their property management agreement and mismanaging her rental properties. (Ex. A1.) Shick filed additional written complaints against Licensee with OREA on January 22 and March 31, 2008. (Exs. A2 and A3.) Robert Pierce (Pierce), an OREA investigator, started investigating the Shick complaints against Licensee in February or March 2008. (Robert Pierce's testimony.)

(16) On April 2, 2008, OREA requested from Licensee documents for the months of October 2007 through February 2008. The documents requested included reconciliations of all client trust accounts (CTAs), owner ledgers for all Shick properties, and supporting documents for all disbursements related to the Shick properties. (Ex. A22.)

(17) On April 10, 2008, Licensee began e-mailing documents to OREA. Owner ledgers for Shick properties, invoices supporting disbursements, and several other reports not requested by OREA were received by OREA from Licensee for the months of October 2007 through February 2008. OREA did not receive any bank reconciliations from Licensee at this time. (Robert Pierce's testimony.) On April 11, 2008, Licensee informed OREA that her computer had crashed, and that she did not know what files could be recovered. (Ex. A23.) Licensee's computer crashed sometime on April 10, 2008. (Licensee's testimony.)

(18) On April 22, 2008, Licensee informed OREA that her files were intact through August 2007, but all files after August 2007 had been destroyed and would have to be reconstructed from hard copies of records. Licensee had not printed and maintained copies the CTA reconciliations. (Ex. A24; Robert Pierce's testimony.)

(19) Later, on April 22, 2008, OREA requested that Licensee immediately send from her backup files, that property managers are required to run at least once every month, the remainder of the documents OREA had earlier requested. (Ex. A25.) Licensee was unable to produce the requested CTA reconciliations or other records from back up files at that time. (Robert Pierce's testimony.) Prior to her computer crashing, Licensee did not back up the data on her computer on any storage source external to her computer; she only backed up her data

on her computer's C Drive, which was lost when her computer crashed. (Licensee's testimony.)

(20) On April 28, 2008, Licensee e-mailed copies of the requested CTA #7006 reconciliations to OREA, but not all the supporting documentation. Licensee also e-mailed all previously provided documents that had to be recreated after the crash. CTA #7006 was a pooled account for all the owners with whom Licensee had property management agreements. (Robert Pierce's testimony.)

(21) On May 2, 2008, copies of the bank statements, cancelled checks, and owner ledger balances for each owner for the months of October 2007 through February 2008 were requested by OREA in order to verify the CTA #7006 reconciliations. (Robert Pierce's testimony.)

(22) On May 14, 2008, Licensee e-mailed the requested supporting documentation. None of the reconciliations balanced. Totals for the checkbook and for the owners' ledger cards, entered by Licensee on the reconciliation forms, were not the totals actually adjusted for outstanding deposits and checks. (Ex. A28; Robert Pierce's testimony.) Licensee had used a trust account reconciliation form made available to property managers by OREA, but she did not know how to use the form correctly. (Licensee's testimony.)

(23) Pierce met with Licensee in La Grande on June 5, 2008 to review her financial records and perform an audit. Licensee was unable to provide Pierce with many of the records he had requested that she bring to the meeting. Pierce gave Licensee additional time to provide those documents. Licensee had not provided all of those documents as of August 29, 2008, when Pierce completed his investigation report and turned it in to his managing supervisor. (Robert Pierce's testimony.)

(24) Licensee had approximately nine property-owner clients, including Shick, during late 2007 and early 2008. Several owners' ledgers showed negative balances. In October 2007, the ledger account for the Waggoner property showed a negative balance of -\$207.07. In November 2007, the owner ledger accounts showing negative balances were Holt, -\$556.72; Waggoner, -\$1,353.48; and Ware, -\$675.12. In December 2007, the owner ledger accounts showing negative balances were Holt, -\$976.06; Waggoner, -\$988.59; and Ware, -\$701.00. In January 2008, the owner ledger account for Holt showed a negative balance of -

\$101.22. In February 2008, the owner ledger account for Waggoner showed a negative balance of -\$700.89. (Ex. A29.) Pierce discussed with Licensee the negative balances and problems they could cause both for her and the property owners. (Robert Pierce's testimony.) Licensee acknowledged the problems and told Pierce that she had asked owners to put money into their accounts to eliminate the negative balances. (Licensee's testimony.)

(25) The deposits entered into the PMSO check register did not match the deposits listed on the bank statements for the business. (Robert Pierce's testimony.) On the October 2007 check register, a deposit showed on October 4, 2007 for \$1,700 listed as multiple transactions, but the bank statement showed a deposit that day for \$3,287.60. (Ex. A30; Robert Pierce's testimony.) The check register gave no details regarding what transactions made up the deposit. There were no owner identification codes relating to the deposits. There was no documentation for the \$1,700 figure or why it was different from the bank statement. This problem was found throughout all five CTA reconciliations. (Robert Pierce's testimony.)

(26) There were several checks written for expenses with no supporting invoices to document the expenses. Licensee was able to provide some invoices. As of August 8, 2008, Licensee was not able to provide documentation for the following checks written to pay expenses on Shick properties: #2805, dated January 14, 2008, for \$562.50; #2817, dated January 17, 2008, for \$112.50; #2860, dated February 14, 2008, for \$1,590.00; #2863, dated September 7, 2007, for \$895.63, and written on February 22, 2008; #2864, dated February 27, 2008, for \$273.75; and #2865, dated February 27, 2008, for \$68.00. (Exs. A34 and A35; Robert Pierce's testimony.)

(27) On January 28, 2008, there was an electronic funds transfer from the CTA to PMSO in the amount of \$675 for administrative expenses that had no supporting documentation. (Robert Pierce's testimony.)

(28) Pierce compared documents received from Shick through her accountant and documents received from Licensee, prior to Licensee's computer crash, to the reconstructed documents received after the crash to verify the accuracy of the reconstructed documents. The three sets of documents matched with one exception. Documents received prior to the crash showed a negative balance in Shick's owner ledger. According to the documents that Licensee reconstructed after the crash and provided to OREA, Shick's owner ledger had a

positive balance. There were three differences in the operating statement for Shick's property at 1912 N Street. Cleaning expenses had increased by \$1,250.00, management fees had decreased by \$300.00, and administrative expenses had decreased by \$895.63. (Robert Pierce's testimony.) The Trust Account Ledger by property received from Shick prior to the crash showed check #2863, written on September 7, 2007 in the amount of \$895.63, payable to PMSO. (Ex. A34 at 1.) The check was out of sequence by almost 300 numbers. On the reconstructed documents, check #2863 did not show up anywhere until February 22, 2008. (Ex. A35 at 2.) The check register for CTA #7006 showed check #2863 being written on February 22, 2008, and cashed the next day. The check number was in sequence with the rest of the checks written in this time period. (Robert Pierce's testimony.)

(29) In CTA security deposit account #6982, check #3132 was entered for two separate transactions. On December 27, 2007, check #3132 was entered on the check register as paid to PMSO in the amount of \$450.00; the check was paid by the bank the following day. On February 15, 2008, the same check #3132 was entered on the check register as paid to Martina Head for the amount of \$51.37. (Exs. A38 through A40.)

(30) On July 26 and 27, 2008, Licensee e-mailed PMSO invoices to OREA that showed billings to Shick for August, September, and October 2007. The bill for August showed 185.53 hours at \$15.00 per hour, plus \$25.00 for travel expenses and \$28.00 for postage. (Ex. A44.) The bill for September showed 394.25 hours at \$15.00 per hour, plus an expense of \$407.94 for temporary lodging for tenants, and \$922.50 for attorney fees. (Ex. A45.) The bill for October showed 335 hour at \$15.00 per hour, plus \$114.00 for travel expense, and \$786.00 for attorney fees. (Ex. A46.) The three invoices totaled \$16,205.14. (Robert Pierce's testimony.) No supporting documentation was received by OREA for the attorney fees. (*Id.*)

(31) Shick's property management agreement specified a standard management fee of 10 percent of the rent collected, with a \$30 minimum monthly fee for a vacant rental. (Ex. A4 at 2.) The agreement also provided for a management fee for administrative costs that pertained to any business conducted on behalf of the owner which included any type of administrative work that was above and beyond the standard work needed to maintain the properties. Such services would be charged at the rate of \$15 per hour. Examples listed in the property management agreement of services that would charged at \$15 an hour included,

insurance claims, franchise claims, Real Estate Agency complaints, and other types of administrative work as described. (*Id.*) Licensee billed Shick for administrative service work as follows: (1) July 27, 2007, preparation of rental agreements, 25 hours for \$375.00; (Ex. A44 at 1.) (2) August 5, 2007, move-in paperwork and signing of rental agreements, 2 hours for \$30.00; (*Id.* at 4.) (3) August 30, 2007, walk through, 2 people, 7 hours each at \$15.00, for \$210.00; (*Id.* at 15.) (4) September 3, 2007, e-mailed Sams from Action Plumbing and took calls all day long regarding repairs and complaints, 10 hours for \$150.00; (Ex. A45 at 2.) and (5) September 4, 2007, returned calls and received more calls regarding repairs, 11 hours for \$165.00. (*Id.* at 3.)

(32) Paragraph F in Shick's property management agreement stated that administrative expenses pertaining to collections on FEDs, commonly known as evictions, were to be charged at the rate of \$25 per hour. (Ex. A4 at 3.) On October 4, 2007, a PMSO invoice to Shick contained an administration charge for 20 hours at \$25 per hour for \$500. (Ex. A46 at 5.) The description of services provided included phone calls to Shick and Sams regarding Shick loans, and calls to contractors. The description did not mention any activities related to collections on FEDs. (*Id.*)

(33) Pierce completed his investigation report regarding the complaints against Licensee and turned it in to his managing supervisor on August 29, 2008. In his report, Pierce presented the factual information he had found and did not make any recommendation as to whether Licensee committed any violations of OREA laws. The managing supervisor made the decision to charge Licensee with the violations of statutes and administrative rules and to file the notice to revoke Licensee's property management license. (Robert Pierce's testimony.)

CONCLUSIONS OF LAW

- (1) Licensee committed multiple violations of ORS 696.301.
- (2) Licensee's real estate property manager's license should be revoked under ORS 696.396(c)(A), (B) and (C).

OPINION

OREA seeks to revoke Licensee's property manager's license. OREA has the burden of proof to establish its allegations. ORS 183.450(2) and (5); *Harris v. SAIF*, 292 Or 683 (1980). OREA must prove the allegations by a preponderance of the evidence. *Sobel v. Board of Pharmacy*, 130 Or App 374, 379 (1994), *rev den* 320 Or 588 (1995) (standard of proof under the Administrative Procedures Act is preponderance of evidence absent legislation adopting a different standard). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely true than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390 (1989). OREA has met its burden.

(1) Violations

OREA has broad authority to regulate and discipline real estate property managers. ORS 696.301 *et seq.* Although the wording in many of the statutes refer to a "real estate licensee," a "real estate broker," or a "principal real estate broker," the statutes include and refer to a "real estate property manager" as well. ORS 696.361.¹

OREA has alleged that Licensee violated a number of provisions in ORS 696.301, which provides, in relevant part, as follows:

Subject to ORS 696.396, the Real Estate Commissioner may suspend or revoke the real estate license of any real estate licensee, reprimand any licensee or deny the issuance or renewal of a license to an applicant who had done any of the following:

* * * * *

(3) Disregarded or violated any provision of ORS 659A.421, 696.010 to 696.495, 696.600 to 696.785 and 696.800 to 696.870 or any rule of the Real Estate Agency.

* * * * *

(12) Demonstrated incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license.

¹ ORS 696.361 states: A real estate property manager is regulated and bound as a real estate broker and as a principal real estate broker.

* * * * *

(14) Committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity.

* * * * *

ORS 696.396, which governs the level of discipline, including revocation, provides as follows:

- (1) The Real Estate Commissioner shall provide by rule for the progressive discipline of real estate licensees and an objective method for investigation of complaints alleging grounds for discipline under ORS 696.301.
- (2) The rules adopted by the commissioner under this section:
 - (a) Must establish procedures for the discovery of material facts relevant to an investigation and for the reporting of those facts without conclusions of violation or grounds for discipline to the commissioner or the commissioner's designee by the individual assigned to investigate the complaint.
 - (b) Must provide for progressive discipline designed and implemented to correct inappropriate behavior.
 - (c) May not authorize imposition of a suspension or a revocation of a real estate license unless the material facts establish a violation of a ground for discipline under ORS 696.301 that:
 - (A) Results in significant damage or injury;
 - (B) Exhibits incompetence in the performance of professional real estate activity;
 - (C) Exhibits dishonesty or fraudulent conduct; or
 - (D) Repeats conduct or an act that is substantially similar to conduct or an act for which the real estate licensee was disciplined previously.

A property manager occupies a position of trust. A property manager manages and controls an owner's property and handles the owner's money. Many of the statutes and administrative rules regulating property managers focus on accounting and reporting requirements from the property manager to the owner and to OREA.

OREA has accused Licensee of violating ORS 696.241(1), a number of OREA administrative rules, and provisions of ORS 696.301. OREA contends that the violations are serious enough to require revocation of Licensee's property manager's license.¹ The violations are addressed in turn.

ORS 696.241(1) requires a property manager to maintain in Oregon a separate bank account designated as a clients' trust account into which all trust funds received or handled by the property manager are to be deposited. Licensee had a clients' trust account. However, she deposited two checks, totaling \$37,310, from the refinancing of Shick's two properties into PMSO's business operating account, not into PMSO's client trust account, as she was required to do. Those checks were directed to PMSO's operating account at Licensee's instruction to the title insurance company. (Ex. A10 at 2.) The money at that point belonged to Shick, not to Licensee. As Licensee earned legitimate fees for her services to Shick, she could have billed Shick and withdrawn money from the trust account to PMSO's business operating account. If Licensee's business operating account had gotten tied up in bankruptcy or some other legal proceeding, Shick's money could also have been tied up. Shick could have been harmed financially by Licensee's actions. This violation is significant. Licensee's conduct violated ORS 696.241(1) and ORS 696.301(3). Her conduct also demonstrated incompetence

¹ OAR 863-015-0230 (since renumbered OAR 863-027-0020) was in effect during the time period relevant to this matter. That section provided for progressive discipline for licensees. Under subsection (4), a reprimand was the maximum disciplinary action to be taken against a licensee for an act that constituted discipline under ORS 696.301, unless such act or conduct did:

- (a) Result in significant damage or injury;
- (b) Exhibit incompetence in the performance of professional real estate activity;
- (c) Exhibit dishonesty or fraudulent conduct; or
- (d) Repeat conduct or an act that is substantially similar to conduct or an act for which the real estate licensee was disciplined previously.

(5) The commissioner may impose suspension or revocation only if the licensee has committed an act that constitutes grounds for discipline under ORS 696.301 and such act also meets the requirements of ORS 696.396(2)(c).

and untrustworthiness in the performance of duties required of a property manager in violation of ORS 696.301(12).

OAR 863-025-0025(11) (March 12, 2007)¹ required a property manager not to disburse funds from a clients' trust account unless there were sufficient funds in the ledger account against which the disbursements are made. Licensee violated this rule in several owners' ledger accounts for several months when she operated negative trust balances for those owners. This meant that Licensee paid bills for some owners from trust account funds belonging to other property owners. If some or all of Licensee's owner clients had closed their accounts at the same time, Licensee would not have been able to return to each owner all the money belonging to that owner. Licensee contends that she monitored the situation and nagged the property owners with negative balances to deposit money to their account ledgers to eliminate their negative balances. Eventually they did so. However, the negative balances continued for several months. For example, Waggoner's ledger account showed negative balances for October through December 2007, and again for February 2008. Holt's ledger showed a negative balance for November 2007 through January 2008. Even a negative balance for one property owner for a short period of time would have been a significant violation. Licensee's conduct violated OREA's administrative rules and ORS 696.301(3) and demonstrated incompetence and untrustworthiness in the performance of duties expected of a property manager in violation of ORS 696.301(12).

OAR 863-025-0025(19) required a property manager to reconcile each client's trust account at least once a month. OAR 863-025-0055(4) required a property manager to report in writing to each owner any change in the owner's ledger. A monthly report, showing all receipts and disbursements for the account of the owner during the prior monthly period, was sufficient to satisfy this rule. *Id.* Licensee failed to provide Shick with monthly reports for October and November 2007. Shick's complaint to OREA over her failure to receive monthly reports from Licensee triggered in part OREA's investigation into Licensee's practices. It

¹ All of the references and citations to OAR chapter 863, Division 025, are to the version of the administrative rules in effect during the events relevant to this case. Amendments were made to the rules after the events relevant to this case.

turned out that Licensee did not know how to reconcile owners' accounts correctly. OREA's investigator discovered multiple errors in Licensee's reconciliations for several different months. The investigator had to show Licensee on June 5, 2008 how to correctly reconcile the owners' accounts. Licensee's conduct violated OREA's administrative rules and ORS 696.301(3) and demonstrated incompetence and untrustworthiness in violation of ORS 696.301(12).

Shick gave Licensee written notice November 10, 2007 to terminate their property management agreement 30 days later, in accordance with terms in the agreement. Licensee took issue with the effective date of the termination of the agreement. Whether the agreement was terminated effective December 10, 2007, or 30 days after November 27 or 29, 2007 (as Licensee contends), Licensee failed to provide Shick with the accounting and transfer of property required by law. OAR 863-025-0070 provided:

If a property management agreement is terminated for any reason, the property manager shall:

- (1) Terminate the property management activity conducted pursuant to the agreement in the manner provided by the terms of the agreement;
- (2) Notify the owner and any tenants of the property of the termination;
- (3) Not later than 60 days after the effective date of the termination, provide the owner with any unobligated funds due to the owner under the agreement;
- (4) Not later than 90 days after the effective date of the termination, provide the owner with:
 - (a) A final accounting of the owner's ledger account: (*sic*)
 - (b) The amount of any obligated funds held in the property manager's clients' trust account under the property management agreement;
 - (c) A statement of why the obligated funds are being held by the property manager; and
 - (d) A statement of when and to whom the obligated funds will be disbursed by the property manager;

As of early April 2008 (more than 90 days after December 29, 2007), Licensee still had not provided Shick with the final accounting and transfer of funds requirements of OAR 863-

025-0070(3) and (4). Because of the incomplete and inaccurate state of Licensee's financial records, it is difficult to determine how much money Licensee should have remitted to Shick 60 days after the property management agreement was terminated. However, it is safe to say that Shick has some money due her by the end of February 2008 at the latest. Licensee did not give her that money. By failing to return unobligated funds and give a final accounting to Shick, Licensee violated OREA's administrative rules and violated ORS 696.301(3). Her conduct also demonstrated incompetence and untrustworthiness in violation of ORS 696.301(12) and dishonesty in violation of ORS 696.301(14).

Licensee committed a number of other violations of OREA administrative rules regarding disclosure and record keeping.

Licensee and Shick signed their property management agreement on July 25, 2007. The agreement, prepared by and on behalf of Licensee, was deficient in a number of respects. OAR 863-025-0020 set for the requirements for a property management agreement. That rule provided, in relevant part:

(2) The property management agreement shall include, but not be limited to:

* * * * *

(h) The disposition of the records of the management of the owner's rental real estate after termination of the agreement;

* * * * *

(j) A statement that the property manager shall disclose to the owner in writing and in a timely manner, any use of employees or a business in which the property manager has a pecuniary interest, to perform work on the property;

(k) An identifying code;

* * * * *

(4) Any amendment or addendum to the property management agreement must be in writing and include the identifying code, the date of the amendment, the signature of the property manager and the signatures of all owners who signed the initial property manager agreement.

* * * * *

Licensee's property management agreement did not contain the information required by OAR 863-025-0020(2)(h), (j) and (k). The failure of the agreement to contain identifying codes for each of Shick's rentals made it especially difficult for OREA's investigator to track Licensee's financial records when he conducted his audit of her books. At hearing, Licensee did not grasp the meaning of subsection (j). She believed the subsection did not apply to her because she did not use employees or businesses in which she had a financial interest in her property management business. However, the purpose of the disclosure requirement in subsection (j) was to require the property manager, and give assurance to the property owner, that the manager *will disclose* such information if and when the manager uses employees or a business in which the property manager has a financial interest. Licensee's failure to have Shick sign the addendum when her personal residence was added to the property management agreement was a significant violation of OREA's rules regarding requirements for property management agreements. OAR 863-025-0020(4). Licensee's conduct regarding her violations of OAR 863-025-0020 violated ORS 696.301(3) and demonstrated incompetence and untrustworthiness in violation of ORS 696.301(12).

A property manager must retain all paid bills and receipts explaining the amount of and purpose for the receipt or disbursement entered in the record of receipts and disbursements. OAR 863-025-0040(6). A property manager must also retain those receipt and disbursement records in the owner's ledger. OAR 863-025-0055(5). OREA presented evidence of numerous examples of Licensee not retaining paid bills or receipts for disbursements purportedly made on Shick's behalf on her rental properties. Those included payments for \$922.50 and \$786 for attorney fees. Those failures to retain or present bills or receipts made it difficult for OREA's investigator to track Licensee's financial records and verify many of the expenses Licensee claimed for payment. Licensee's conduct violated OREA administrative rules in violation of ORS 696.301(3) and demonstrated incompetence and untrustworthiness in violation of ORS 696.301(12).

Licensee's problems of producing and reconstructing financial records were compounded when her computer crashed on April 10, 2008, during the course of OREA's investigation of her books. However, Licensee's problem in this respect resulted from her own

failure to understand and follow the administrative rule for property managers regarding computerized records. OAR 863-025-0035(2) required:

(2) If a property manager uses a computerized system for creating, maintaining and producing required records and reports:

(a) The property manager shall back up any data that is stored in the computerized system at least once every month; and

(b) Posting of owner ledgers, records of receipts and disbursements, tenant ledgers and manipulation of information and documents shall be maintained in a format that will readily enable tracing and reconciliation.

Licensee backed up the owners' financial records and data on her own computer's C: Drive, rather than to a source external to her computer. Licensee's failure to properly back up the financial data on her computer forced her to try and reconstruct records from hard copies of financial information. This made it difficult if not impossible for Licensee to accurately reconstruct her financial information and for OREA to conduct a thorough and accurate audit of her records. Licensee's failure to comply with OAR 863-025-0035(2) violated ORS 696.301(3) and demonstrated incompetence and untrustworthiness in violation of ORS 696.301(12).

Shick's property management agreement with Licensee provided that fees would be paid to PMSO for its management services at 10 percent of the rent collected. Administrative fees for work conducted by Licensee above and beyond the standard work needed to maintain the properties would be charged at the rate of \$15 per hour. Examples of work for such management services listed in the agreement included insurance claims, franchise claims and OREA complaints. Licensee billed Shick on July 27, 2007, for \$375, for 25 hours for preparation of rental agreements; she billed Shick on August 5, 2007, for \$30, for two hours for move-in paperwork and signing of rental agreements; she billed Shick on August 30, 2007, for \$210 for seven hours, for walking two people through one or more properties; she billed Shick on September 3, 2007, for \$150 for 10 hours for e-mails and phone calls with a plumber regarding repairs and complaints; and she billed Shick on September 4, 2007, \$165 for 11 hours for receiving and taking more calls regarding repairs. I believe those billings were for work that should have been covered by the standard 10 percent management fee in the

property management agreement, and should not have been billed to Shick as additional administrative management fees at \$15 an hour.

Shick's property management agreement provided that administrative fees regarding collections on FEDs, commonly known as evictions, would be billed by Licensee at \$25 per hour. On October 4, 2007, a PMSO invoice charged Shick \$500, for 20 hours at \$25 per hour for phone calls with Shick and Sams regarding Shick's refinance loans and calls to contractors. I do not believe this work fit the definition in the property management agreement for work that justified billing at \$25 per hour. I believe that Licensee over-charged Shick for fees in violation of their property management agreement. Licensee's conduct described in this paragraph and the above paragraph demonstrated incompetence and untrustworthiness in violation of ORS 696.301(12) and dishonesty in violation of ORS 696.301(14).

Licensee billed Shick for August 2007 for 185.53 hours of work at \$15 per hour for administrative fees. She billed Shick for September 2007 for 394.25 hours at \$15 an hour for administrative fees; and she billed Shick for October 2007 for 335 hours at \$15 an hour. Assuming 22 working days in a month, that meant Licensee billed Shick for working, over and above any hours she would have worked to earn her regular standard 10 percent management fee, an average of eight hours a day for August (185.53 hours divided by 22 days); an average of 18 hours a day for September (394.25 hours divided by 22 days); and an average of 15 hours a day for October (335 hours divided by 22 days). Licensee testified that during this time period she had nine owner clients, including Shick. I do not find it credible that Licensee could legitimately work that many hours on Shick's properties and legitimately bill Shick for the administrative fees she billed her for, and deduct those fees from the funds Licensee had deposited in her business operating account from the refinancing of the two Shick properties. I believe Licensee significantly over-charged Shick for those three months. Licensee's conduct demonstrated incompetence and untrustworthiness in violation of ORS 696.301(12), and also demonstrated fraud and dishonesty related to her fitness as a property manager in violation of ORS 696.301(14) that resulted in significant financial loss to Shick.

In sum, Licensee committed multiple violations of OREA's administrative rules and ORS 696.301 over an extended period of time.

(2) *Penalty*

OREA seeks to revoke Licensee's property management license. Under ORS 696.396(2)(c), OREA may not revoke a license unless the material facts establish a violation of a ground for discipline under ORS 696.301 that:

- (A) Results in significant damage or injury; [or]
- (B) Exhibits incompetence in the performance of professional real estate activity; [or]
- (C) Exhibits dishonesty or fraudulent conduct;

(ORS 696.396(2)(c).)

Licensee committed multiple violations of OREA administrative rules and ORS 696.301(3) over an extended period of time. She violated ORS 696.241(1) by depositing significant funds into her business operating account rather than into her client trust account. The violations Licensee committed demonstrated incompetence in the performance of her duties as a licensed property manager. Several of the violations also demonstrated dishonesty and untrustworthiness that resulted in significant financial loss to Shick. I believe that Licensee's real estate property management license should be revoked under ORS 696.396(2)(c)(A), (B) and (C).

FINAL ORDER

IT IS HEREBY ORDERED that the property manager's license of Jinean Florum be revoked with said revocation effective the 1 day of SEPTEMBER, 2010.

Dated this 22 day of June, 2010.

OREGON REAL ESTATE AGENCY



GENE BENTLEY

Real Estate Commissioner

DATE of service: 6-22-10

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this order. Judicial review is pursuant to the provisions of ORS 183.482.

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Property Manager's
License of
DEBORAH C. FRONTINO

) STIPULATED FINAL ORDER

The Real Estate Agency (OREA) and Deborah C. Frontino (Frontino) do hereby agree and stipulate to the following:

FINDINGS OF FACT
AND
CONCLUSION OF LAW

1. On April 24, 2008, Frontino transferred her property manager's license to Allied Group, Inc., a Corporation of Washington (Allied Group). In December 2008, Frontino terminated her employment with Allied Group. Agency records indicate that Frontino remained licensed with Allied Group until her license expired on July 31, 2009.

2. In February 2009, Frontino began employment with Trinity Property Consultants (Trinity). Trinity manages four properties in which Trinity is part owner. Frontino acts as a property manager for Trinity's properties. From February 2009 to July 2009, Frontino managed property in the name of Trinity while her license remained with Allied Group. Trinity did not become a Registered Business Name with the Agency until April 28, 2010.

Violation: By managing property in the name of Trinity from February 2009 until April 27, 2010, Frontino conducted property management activity under a name not registered with the Agency, in violation of ORS 696.026(1)(a)(B) and is subject to sanction pursuant to ORS 696.301(3).

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1 3. Frontino's license expired on July 31, 2009. Frontino continued conducting
2 property management activity with Trinity after her license expired until she renewed her
3 license on April 28, 2010. During the time Frontino's license was expired, August 1, 2009 to
4 April 27, 2010, 270 days, Frontino continued conducting professional real estate activity as if
5 actively licensed.

6 **Violation:** By conducting professional real estate activity over the course of 270 days
7 after her license expired and before reactivating it, Frontino violated ORS 696.020(2) and is
8 subject to discipline or civil penalty pursuant to ORS 696.301(3).

9 **STIPULATION & WAIVER**

10 I have read and reviewed the above findings of fact and conclusions of law which have
11 been submitted to me by OREA and further, the order which follows hereafter. I understand
12 that the findings of fact, conclusions of law and this stipulation and waiver embody the full and
13 complete agreement and stipulation between OREA and myself. I further understand that if I
14 do not agree with this stipulation I have the right to request a hearing on this matter and to be
15 represented by legal counsel at such a hearing. Hearings are conducted in accordance with
16 the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and
17 Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily
18 waive my rights to a hearing, to representation by legal counsel at such a hearing, and to
19 judicial review of this matter.

20 I hereby agree and stipulate to the above findings of fact and conclusions of law and
21 understand that the order which follows hereafter may be completed and signed by the Real
22 Estate Commissioner or may be rejected by the Real Estate Commissioner, in which case an
23 amended notice of intent may be issued in this matter. I understand that, in accordance with
24 the provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real
25 Estate News Journal.

26 **ORDER**

27 IT IS HEREBY ORDERED that Frontino be, and hereby is, reprimanded, and

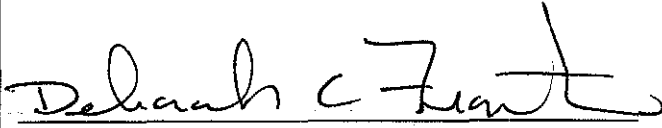
28 IT IS HEREBY FURTHER ORDERED that pursuant to ORS 696.990(1) to (9) and
29 based upon the violation set forth above, Frontino pay a civil penalty in the sum of \$7,500, said
30 penalty to be paid to the General Fund of the State Treasury by paying the same to the OREA.

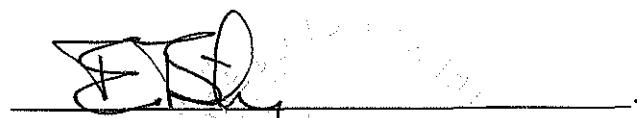
1 The civil penalty is computed in accordance with ORS 696.990(4) and (8) in that each 30-day
2 period of unlicensed activity is considered one violation. In this instance, there were eight 30-
3 day periods of unlicensed activity.

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IT IS SO STIPULATED:

IT IS SO ORDERED:





DEBORAH C. FRONTINO

GENE BENTLEY
Real Estate Commissioner

Date 3-15-10

Date 6-22-10

DATE of service: 6-22-10

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate Broker's
5 License of
6
7 LISA MARIE JACOBSEN
8

}
} STIPULATED FINAL ORDER
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9
10 The Real Estate Agency (OREA) and Lisa Marie Jacobsen (Jacobsen) do hereby agree
11 and stipulate to the following:

12 FINDINGS OF FACT
13 CONCLUSIONS OF LAW

14 1.

15 1.1 At all times mentioned herein, Jacobsen was licensed as a principal broker doing
16 business under the registered business name of Houck and Associates, LLC.

17 1.2 On December 2, 2008, OREA received a complaint from John C. Reis (Reis)
18 that, in substance, alleged that Jacobsen misrepresented property located at 917 Alina Avenue
19 SE, in Salem, OR (subject property).

20 1.3 The subject property was owned by Jarrold Scofield (Scofield). An offer was
21 written prior to the property being listed.

22 1.4 On June 10, 2008, Jacobson completed an offer on the subject property for
23 William Syrios (Syrios) and/or assigns as the buyer. The final agency acknowledgement
24 indicated that Jacobsen represented the buyer exclusively and Toni Keener (Keener) of Houck
25 and Associates LLC represented the seller exclusively. The Disclosed Limited Agency
26 Agreement for Buyers was signed showing Jacobsen as the buyer's agent.

27 1.5 Although Keener was shown on the offer as the seller's agent, Jacobsen
28 presented the Syrios offer and the listing agreement to the seller. Jacobsen inserted Keener's
29 name as the licensee presenting the offer in the agreement to purchase portion of the Syrios
30 offer.

1 **Violation:** By presenting the Syrios offer to the seller when you were listed as the
2 buyer's agent and without the seller's agent being present, Jacobsen engaged in conduct that
3 is below the standard of care for the practice of professional real estate activity in Oregon, in
4 violation of ORS 696.301(15).

5 **Violation:** By inserting Keener's name as the licensee who presented the Syrios offer
6 when Jacobsen actually presented the offer to the seller, Jacobsen created a reasonable
7 probability of damage or injury by making a material misrepresentation in a matter related to
8 professional real estate activity, in violation of ORS 696.301(1).

9 1.6 On June 12, 2008, Scofield signed a listing agreement for the subject property.
10 The listing agreement shows Keener as the listing broker.

11 1.7 On September 18, 2008, the subject property was placed in the multiple listing
12 service (MLS). The listing broker was shown as Jacobsen instead of Keener.

13 **Violation:** By representing in the MLS that she was the listing broker when the listing
14 shows Keener as the listing broker, Jacobsen created a reasonable probability of damage or
15 injury by making a material misrepresentation in a matter related to professional real estate
16 activity, in violation of ORS 696.301(1).

17 1.8 The MLS property description included the following: (a) that the property had 2
18 bedrooms when in fact it had 4; (b) that the listing date was September 18, 2008 when it was
19 actually June 12, 2008; and (c) that the property had no heat source when in fact the property
20 did have a heat pump and the property disclosure indicated that the heating and cooling
21 system were in good working order.

22 **Violation:** By placing inaccurate information into MLS regarding the number of
23 bedrooms, listing date and heat source, Jacobsen created a reasonable probability of damage
24 or injury to a person by making a material misrepresentation in a matter related to professional
25 real estate activity, in violation of ORS 696.301(1).

26 1.9 Throughout the majority of the Scofield to Syrios transaction, Jacobsen
27 conducted herself as representing both the seller and the buyer, although the transaction
28 documentation showed Keener as the seller's agent.

29 **Violation:** By acting as the seller's and buyer's broker for the majority of the Scofield to
30 Syrios transaction, Jacobsen created a reasonable probability of damage or injury by making a

1 material misrepresentation in a matter related to professional real estate activity, in violation of
2 ORS 696.301(1).

3 1.10 The listing file at Houck and Associates LLC contained a form titled "Foreclosure
4 Disclaimer". The top of the form has a picture of three licensees, Jacobsen, Keener and
5 Charlene Knudsen, also a broker with Houck and Associates LLC. The form shows TLC Real
6 Estate Solutions, Real Solutions in Today's Market, Houck and Associates LLC, and then lists
7 the three licensee's names. The form was misleading and confusing as to what firm the
8 licensees were associated with.

9 **Violation:** By using a form that included TLC Real Estate Solutions that purported to
10 be the brokerage that the licensees were associated with, Jacobsen violated OAR 863-015-
11 0125(2)(b) and is subject to sanction in accordance with ORS 696.301(3).

12 2.

13 2.1 OREA reserves the right to investigate and pursue additional complaints that
14 may be received in the future regarding this licensee.

15 2.2 In establishing the violations alleged above, OREA may rely on one or more
16 definitions contained in ORS 696.010.

17 STIPULATION & WAIVER

18 I have read and reviewed the above findings of fact and conclusions of law which have
19 been submitted to me by OREA and further, the order which follows hereafter. I understand
20 that the findings of fact, conclusions of law and this stipulation and waiver embody the full and
21 complete agreement and stipulation between OREA and myself. I further understand that if I
22 do not agree with this stipulation I have the right to request a hearing on this matter and to be
23 represented by legal counsel at such a hearing. Hearings are conducted in accordance with
24 the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and
25 Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily
26 waive my rights to a hearing, to representation by legal counsel at such a hearing, and to
27 judicial review of this matter.

28 I hereby agree and stipulate to the above findings of fact and conclusions of law and
29 understand that the order which follows hereafter may be completed and signed by the Real
30 Estate Commissioner or may be rejected by the Real Estate Commissioner, in which case an

1 amended notice of intent may be issued in this matter. I understand that, in accordance with
2 the provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real
3 Estate News Journal.

4 ORDER

5 IT IS HEREBY ORDERED that Jacobsen's real estate broker license be suspended for
6 a period of sixty (60) days with said suspension to commence and be effective on the 21st
7 day of August, 2010.

8
9 IT IS SO STIPULATED:

IT IS SO ORDERED:

10
11 Lisa Marie Jacobsen
12

13 LISA MARIE JACOBSEN

14 Gene Bentley
15

16 GENE BENTLEY

17 Real Estate Commissioner

18 Date 8/9/10

19 Date 8.16.10

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DATE of service: 8-17-10

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate Broker's
5 License of
6
7 TONI MARLENE KEENER
8

STIPULATED FINAL ORDER

9 The Real Estate Agency (OREA) and Toni Marlene Keener (Keener) do hereby agree
10 and stipulate to the following:

11 FINDINGS OF FACT
12 CONCLUSIONS OF LAW

13 1.

14 1.1 At all times mentioned herein, Keener was licensed as a real estate broker with
15 Houck and Associates, LLC.

16 1.2 On December 2, 2008, OREA received a complaint from John C. Reis (Reis)
17 that, in substance, alleged that Lisa Jacobsen (Jacobsen), principal broker with Houck and
18 Associates, LLC, misrepresented property located at 917 Alina Avenue SE, in Salem, OR
19 (subject property).

20 1.3 The subject property was owned by Jarrold Scofield (Scofield). An offer was
21 written prior to the property being listed.

22 1.4 On June 10, 2008, Jacobson completed an offer on the subject property for
23 William Syrios (Syrios) and/or assigns as the buyer. The final agency acknowledgement
24 indicated that Jacobsen represented the buyer exclusively and Keener represented the seller
25 exclusively. The Disclosed Limited Agency Agreement for Buyers was signed showing
26 Jacobsen as the buyer's agent.

27 1.5 Although Keener was shown on the offer as the seller's agent, Jacobsen
28 presented the Syrios offer and the listing agreement to the seller on June 10, 2008. Scofield
29 signed the acceptance of the offer on June 10, 2008, however Scofield initialed the bottom of
30 the pages on June 12, 2008.

1 1.6 On June 12, 2008, Scofield signed a listing agreement showing Keener as the
2 listing broker. Keener completed the listing agreement from information she obtained by
3 phone from Scofield's wife and the Marion County property records. Keener also completed
4 the Disclosed Limited Agency Agreement for Seller along with the other documents in the
5 broker listing file. Although Keener prepared the documentation, Jacobsen presented the
6 documents to Scofield and obtained Scofield's signature on the listing agreement, Disclosed
7 Limited Agency Agreement and all other documentation found in the broker listing file. Keener
8 had not seen the property at the time it was listed.

9 **Violation:** By listing the property without actually seeing the property, Keener
10 demonstrated incompetence or untrustworthiness in performing an act for which she is
11 required to hold a license, in violation of ORS 696.301(12).

12 1.7 The Syrios offer was for the purchase price of \$165,000 and indicated that
13 \$1,000 earnest money was to be deposited within 3 business days of acceptance by seller's
14 lender. No earnest money was ever paid by Syrios as called for in the offer.

15 **Violation:** By failing to assure that the earnest money was collected per the
16 agreement, Keener failed to exercise reasonable care and diligence in violation of ORS
17 696.805(3)(a). and is subject to sanction pursuant to ORS 696.301(3).

18 1.8 On September 18, 2008, the subject property was placed in the multiple listing
19 service (MLS). The listing broker was shown as Jacobsen instead of Keener.

20 1.9 The MLS property description included the following: (a) that the property had 2
21 bedrooms when in fact it had 4; (b) that the listing date was September 18, 2008 when it was
22 actually June 12, 2008; and (c) that the property had no heat source when in fact the property
23 did have a heat pump and the property disclosure indicated that the heating and cooling
24 system were in good working order.

25 **Violation:** By placing inaccurate information into MLS regarding the number of
26 bedrooms, listing date and heat source, Keener created a reasonable probability of damage or
27 injury to a person by making a material misrepresentation in a matter related to professional
28 real estate activity, in violation of ORS 696.301(1).

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1 1.10 Throughout the majority of the Scofield to Syrios transaction, Keener allowed
2 Jacobsen to conduct herself as representing both the seller and the buyer, although the
3 transaction documentation showed Keener as the seller's agent.

4 **Violation:** By failing to be present for presentation of the Syrios offer and failing to
5 represent the seller throughout the transaction, Keener failed in her affirmative duties to be
6 loyal to the seller by not taking action that is adverse or detrimental to the seller's interest in a
7 transaction, in violation of ORS 696.805(3)(c), and is subject to sanction pursuant to ORS
8 696.301(3).

9 1.11 The listing file at Houck and Associates LLC contained a form titled "Foreclosure
10 Disclaimer". The top of the form has a picture of three licensees, Jacobsen, Keener and
11 Charlene Knudsen, also a broker with Houck and Associates LLC. The form shows TLC Real
12 Estate Solutions, Real Solutions in Today's Market, Houck and Associates LLC, and then lists
13 the three licensee's names. The form was misleading and confusing as to what firm the
14 licensees were associated with.

15 **Violation:** By using a form that included TLC Real Estate Solutions that purported to
16 be the brokerage that the licensees were associated with, Keener violated OAR 863-015-
17 0125(2)(b) and is subject to sanction in accordance with ORS 696.301(3).

18 2.

19 2.1 OREA reserves the right to investigate and pursue additional complaints that
20 may be received in the future regarding this licensee.

21 2.2 In establishing the violations alleged above, OREA may rely on one or more
22 definitions contained in ORS 696.010.

23 STIPULATION & WAIVER

24 I have read and reviewed the above findings of fact and conclusions of law which have
25 been submitted to me by OREA and further, the order which follows hereafter. I understand
26 that the findings of fact, conclusions of law and this stipulation and waiver embody the full and
27 complete agreement and stipulation between OREA and myself. I further understand that if I
28 do not agree with this stipulation I have the right to request a hearing on this matter and to be
29 represented by legal counsel at such a hearing. Hearings are conducted in accordance with
30 the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and

1 Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily
2 waive my rights to a hearing, to representation by legal counsel at such a hearing, and to
3 judicial review of this matter.

4 I hereby agree and stipulate to the above findings of fact and conclusions of law and
5 understand that the order which follows hereafter may be completed and signed by the Real
6 Estate Commissioner or may be rejected by the Real Estate Commissioner, in which case an
7 amended notice of intent may be issued in this matter. I understand that, in accordance with
8 the provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real
9 Estate News Journal.

10 ORDER


11 IT IS HEREBY ORDERED that Keener's real estate broker license be suspended for a
12 period of thirty (30) days with said suspension to commence and be effective on the 20th
13 day of October, 2010.

14
15 IT IS SO STIPULATED:

IT IS SO ORDERED:

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18 _____

19 TONI MARLENE KEENER



GENE BENTLEY

Real Estate Commissioner

20
21 Date 8-6-10

Date 8.16.10

22
23 DATE of service: 8-17-10
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1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
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4 In the Matter of the Property Manager's
5 License of
6
7 CHRISTOPHER C. LINDSEY
8

STIPULATED FINAL ORDER

9
10 The Real Estate Agency (OREA) and Christopher C. Lindsey (Lindsey) do hereby agree
11 and stipulate to the following:

12 FINDINGS OF FACT
13 AND
14 CONCLUSIONS OF LAW

15 1.

16 1.1 At all times mentioned herein, Lindsey was licensed as a property manager doing
17 business under the registered business name of AAA Property Management, Inc. (AAA).

18 1.2 On June 23, 2009, OREA received a complaint from Nelson Amaya (Amaya)
19 alleging that Lindsey completed unauthorized repair work and proceeded to charge Amaya for
20 the work.

21 1.3 On September 28, 2007, Amaya signed a property management agreement with
22 AAA to manage Amaya's properties at 1713 Lexington Ave, Klamath Falls, OR, and 5322
23 Mahan Ave #1 and #2, Klamath Falls, OR. The property management agreement was for one
24 year and then on a month to month term until either party gave a written thirty-day notice of
25 intent to terminate. There were also two addendums executed by Amaya. Neither the
26 property management agreement nor either of the addendums were signed or dated by
27 Lindsey or an authorized representative of AAA.

28 **Violation:** By failing to sign and date Amaya's property management agreement and
29 the two addendums, Lindsey violated OAR 863-025-0020(2)(L)(m), (6) (2007 Edition, 8-15-07)
30 and is subject to sanction pursuant to ORS 696.301(3).

1 STIPULATION & WAIVER

2 I have read and reviewed the above findings of fact and conclusions of law which have
3 been submitted to me by OREA and further, the order which follows hereafter. I understand
4 that the findings of fact, conclusions of law and this stipulation and waiver embody the full and
5 complete agreement and stipulation between OREA and myself. I further understand that if I
6 do not agree with this stipulation I have the right to request a hearing on this matter and to be
7 represented by legal counsel at such a hearing. Hearings are conducted in accordance with
8 the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and
9 Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily
10 waive my rights to a hearing, to representation by legal counsel at such a hearing, and to
11 judicial review of this matter.

12 I hereby agree and stipulate to the above findings of fact and conclusions of law and
13 understand that the order which follows hereafter may be completed and signed by the Real
14 Estate Commissioner or may be rejected by the Real Estate Commissioner, in which case an
15 amended notice of intent may be issued in this matter. I understand that, in accordance with
16 the provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real
17 Estate News Journal.

18 ORDER

19 IT IS HEREBY ORDERED that Lindsey be, and hereby is, reprimanded.

20
21 IT IS SO STIPULATED:

22
23 Chris C Lindsey
24
25 CHRISTOPHER C. LINDSEY

26
27 Date 6-15-2010

21 IT IS SO ORDERED:

22
23 Gene Bentley
24
25 GENE BENTLEY

26 Real Estate Commissioner

27 Date 6-22-10

28
29 DATE of service: 6-23-10
30

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate Broker's
5 License of
6
7 LINDA L. LONG
8

STIPULATED FINAL ORDER

9
10 The Real Estate Agency (OREA) and Linda L. Long (Long) do hereby agree and
11 stipulate to the following:

12 FINDINGS OF FACT
13 AND
14 CONCLUSIONS OF LAW

15 1.

16 1.1 At all times mentioned herein, Long was licensed as a principal real estate broker
17 with Crater Lake Realty, Inc.

18 1.2 On January 23, 2009, OREA received a complaint from Cheryl Johnston
19 (Johnston). Johnston purchased a five acre parcel in Pine Ridge Ranches Subdivision
20 (PRRS) on September 28, 2005. Burt Swingle (Swingle) represented both the buyer and
21 seller. Johnston alleged that: (a) the PRRS does not conform to the fire codes by not having
22 water holding tanks and an emergency access road that allows egress from the property to a
23 second public road; (b) the PRRS does not conform to the Klamath County Land Use Code in
24 that the septic system is not to code; (c) Pete Bourdet (Bourdet), Long's husband and the
25 developer of the PRRS, did not install a fire suppression system per the Klamath County
26 regulations; and (d) neither Swingle nor Long notified Johnston that the PRRS was not in
27 compliance with Klamath County Planning, Klamath County and State Land Use and Fire
28 Divisions.

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1 1.3 The PRRS is located on a portion of the cattle ranch in Klamath County that
2 Long's family has owned for many years and Long and Bourdet decided to develop part of the
3 ranch. Long and Bourdet worked with the Klamath County Planning Director and the Chiloquin
4 Fire Chief throughout the development of the PRRS.

5 1.4 On August 16, 1996, Long met with Chief Holster with the Chiloquin-Agency
6 Lake Rural Fire Protection District to discuss the PRRS. Chief Holster noted that the proposed
7 PRRS is located in an extreme fire hazard rating as developed by Klamath County. The
8 following items were discussed:

9 (a) That a road system and maintenance will need to meet or exceed the county
10 standards. That the road maintenance would be provided by the home owners association
11 (HOA), which was acceptable to the fire district.

12 (b) That the tract would have one way in and two ways out. (Article 69.030(a)) The
13 second exit, an emergency exit only, would be to the north tying into Old Korral Road and the
14 railroad tracks near Woodland Park. This would be acceptable to the fire district provided that
15 Bourdet contact adjoining land owner and obtain permission to use other lands for an
16 emergency exit and a simple road be maintained. Signs must be posted.

17 (c) That the PRRS have an irrigation system which includes four 10,000 gallon
18 holding tanks. That a fire suppression system should be incorporated into the irrigation
19 system. (Article 69.050(d))

20 2.

21 2.1 On June 30, 2005, Johnston (then Cheryl Lynn McGinnis) purchased Lot 35 in
22 the PRRS from Sam Asadurian (Asadurian) for \$33,000. A standard owner's policy was
23 issued on July 22, 2005. Under "Special Exceptions" #10 notes, the streets are not dedicated
24 but are private streets to be maintained by the HOA, said plat subject to Article 69 of the
25 Klamath County Land Development Code. The Asadurian to Johnston transaction closed on
26 September 28, 2005.

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1 2.2 In 2008, Johnston wrote to Chief Holster asking questions about the PRRS being
2 in compliance. On November 25, 2008, Chief Holster responded to Johnston noting that as of
3 that date, none of the original requirements had been complied with. Also, none of the
4 concessions of the original requirements had been complied with. Chief Holster notes that the
5 PRRS did not conform to the 1994 Uniform Fire Codes, Sections 902, 903 and 1001. Chief
6 Holster also notes that the PRRS did not conform to Klamath County's Land Use Code Article
7 69.

8 2.3 Bourdet installed a pump in the Williamson River that was to be used for fires
9 and irrigation. Long stated that the hydrant/irrigation system could also be used to put out fires
10 in the PRRS because the system has the required pressure and water flow. However, Les
11 Wilson (Wilson), Klamath County Planning Supervisor advised that the system is not adequate
12 for fighting a fire. Long did not disclose to purchasers of the PRRS that the irrigation/fire
13 suppression system was not adequate for fighting a fire and not to code per the 1994 Uniform
14 Fire Codes and Klamath County Land Use Codes.

15 **Violation:** By failing to advise purchasers that the irrigation/fire suppression system is
16 not adequate and not up to code, Long violated ORS 696.805(2)(a) and (c), 696.815(5)(a-c)
17 and is subject to sanction pursuant to ORS 696.301(3).

18 2.4 Bourdet was notified by the county and fire marshal that the PRRS must have a
19 second point of egress in case of an emergency and/or evacuation of the PRRS. The egress
20 road was to be located on the north end of the PRRS and Bourdet was required to acquire
21 access across several properties to a second public main road and to develop and maintain
22 the access road. Bourdet obtained only one agreement allowing the egress road across an
23 adjoining property, but the required access road needs to cross over several other properties.
24 Bourdet did not acquire access across any other properties and there is no developed road for
25 egress. Long did not disclose to purchasers of the PRRS that the PRRS was not in
26 compliance with the 1994 Uniform Fire Codes and Klamath County Land Use Codes by not
27 having a road easement for emergency egress.

28 **Violation:** By failing to advise purchasers that there was no easement for emergency
29 egress in compliance with code, Long violated ORS 696.805(2)(a) and (c), 696.815(5)(a-c) and
30 is subject to sanction pursuant to ORS 696.301(3).

1 2.5 The PRRS is in a floodplain. One property owner's lot is wetland and the owner
2 cannot build on the lot. Klamath County is working with the Division of State Lands to
3 designate specific wetland issues. Long did not disclose to purchasers that the PRRS is on
4 the 1989 National Wetland Inventory Map or suggest that the purchasers contact the Division
5 of State Lands to verify they can build on the lot they want to purchase.

6 **Violation:** By not disclosing to purchasers that the PRRS is in a floodplain and that
7 some of the lots maybe wetlands and unable to be have building permits issued, Long violated
8 ORS 696.805(2)(a) and (c), 696.815(5)(a-c) and is subject to sanction pursuant to ORS
9 696.301(3).

10 2.6 In Long's August 1996 meeting with Chief Holster, it was discussed that the road
11 maintenance would be provided by the HOA. Long and Bourdet decided to wait to form the
12 HOA until after the property was developed and some of the lots were sold. The property
13 owners have not agreed to the HOA proposal and Long and Bourdet attempted to form the
14 HOA, but have not been able to do so without the cooperation of the property owners. Long
15 included in her advertising that the HOA was forming. Long did not disclose that the formation
16 of the HOA would not be completed until the PRRS was in compliance with the state and
17 county codes.

18 **Violation:** By advertising that the HOA was forming when she knew that the present
19 PRRS property owners would not agree to form an HOA until the PRRS is in compliance with
20 the state and county agencies and codes, Long violated OAR 863-015-0125(1), (5)(b) (2004
21 Edition, 5-14-04) and OAR 863-015-0125(1), (2)(b) (2007 Edition, 8-15-07) and is subject to
22 sanction pursuant to ORS 696.301(3).

23 2.7 Other licensees in Long's brokerage office are giving out information regarding
24 the PRRS which is incorrect. Long has not advised other licensees in her office regarding any
25 of the non-compliance issues relating to the irrigation system, fire code or HOA.

26 **Violation:** By failing to notify licensees in her office of the non-compliance and HOA
27 issues with the PRRS, Long violated ORS 696.301(15).

28 2.8 Long advised OREA that the issues in paragraphs 2.3 (irrigation/fire suppression)
29 and 2.4 (emergency egress) above will be resolved by October 15, 2010 and that she will
30 provide OREA with official documentation to that effect.

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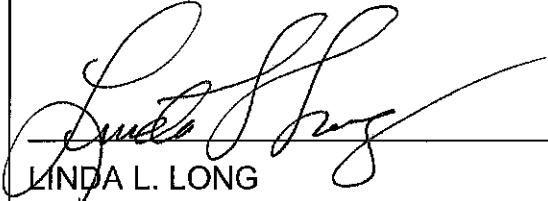
ORDER

IT IS HEREBY ORDERED that Long be, and hereby is, reprimanded.

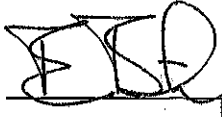
IT IS FURTHER ORDERED that should Long not provide OREA with documentation and information outlined in paragraphs 2.8 and 2.9 above, that Long's real estate license will be suspended for a period of sixty (60) days effective November 1, 2010.

IT IS SO STIPULATED:

IT IS SO ORDERED:



LINDA L. LONG



GENE BENTLEY

Real Estate Commissioner

Date 7-8-10

Date 7-8-10

DATE of service: 7-20-10

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate Broker's
5 License of

6
7 SUSAN E. MILLS-SCHREMM
8

ORDER ON DEFAULT

9
10 1.

11 1.1 On March 30, 2010, the Real Estate Commissioner issued, by certified mail, a
12 notice of intent to suspend the real estate broker's license of Susan E. Mills-Schremm (Mills-
13 Schremm). The Real Estate Agency (OREA) sent the notice of intent to Mills-Schremm's last
14 known address of record with the OREA. The notice of intent was also mailed to Mills-
15 Schremm by regular first class mail in a handwritten envelope.

16 1.2 The certified mailing was returned to OREA with the postal notation "no mail
17 receptacle". The first class mailing in the handwritten envelope was not returned.

18 1.3 On April 12, 2010, an Amended Notice of Intent to Suspend was sent to Mills-
19 Schremm at her last known address of record. The amended notice included a NSF check
20 issue for Mills-Schremm's license renewal. On April 20, 2010, Mills-Schremm cleared up the
21 NSF issue. Neither the certified mailing nor the first class mailing in the handwritten envelopes
22 with the Amended Notice of Intent have been returned to OREA.

23 1.4 Over twenty (20) days have elapsed since the mailing of the notice issued in this
24 matter and no written request for hearing has been received.

25 1.5 Copies of the entire investigation file are entered into the record and made a part
26 of this order as is all information in the administrative file relating to the mailing of notices and
27 any responses received.

28 2.

29 Based upon the foregoing and upon a review of the above described investigation
30 reports, documents and files, the Real Estate Commissioner finds:

1 2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is
2 properly served when deposited in the United States mail, registered or certified mail,
3 addressed to the real estate licensee or to any other person having an interest in a proceeding
4 before the Commissioner at the licensee's or other person's last known address of record with
5 OREA.

6 2.2 Mills-Schremm's last known address of record with OREA was 1605 Hamlet Ln,
7 Eugene OR 97402.

8 2.3 Certified mailings of the notice of intent and the amended notice of intent were
9 mailed to Mills-Schremm at her last known address of record on March 30, 2010 and April 12,
10 2010.

11 2.4 The mailings in the handwritten envelope have not been returned to OREA. In
12 accordance with ORS 40.135(1)(q), there is a presumption that the mailing properly addressed
13 and placed with the U.S. Postal Service was delivered. That presumption has not been
14 overcome by any evidence.

15 2.5 Over twenty (20) days have elapsed since the mailing of the notice and no
16 written request for a hearing has been received.

17 FINDINGS OF FACT
18 CONCLUSIONS OF LAW

19 3.

20 3.1 At all times mentioned herein, Mills-Schremm was licensed as a principal broker
21 doing business under the registered business name of Emerald City Real Estate Services,
22 LLC.

23 3.2 Some time prior to August 27, 2008, Eleanor Myers (Myers) entered into a listing
24 agreement with Emerald City Real Estate Services, LLC through Lisa Ann Mowry (Mowry) to
25 sell Myers' home and try to avoid foreclosure.

26 3.3 On October 4, 2008, Mowry held an auction to sell the subject property.
27 According to the flyer, the auction was to begin at 12 noon; the minimum bid was \$200,000;
28 the buyer was required to deposit \$5,000 earnest money; the seller was to be responsible for
29 the sales commission to Emerald City Real Estate Services, LLC; and Mowry would represent
30 ///

1 the buyer and the seller. If the buyer was going to use financing, the buyer was to be pre-
2 qualified for the winning bid amount.

3 3.4 On October 4, 2008, Jean Denis (Denis) entered into an earnest money
4 agreement to purchase the subject property for \$229,000. Mowry wrote the earnest money
5 agreement. The final agency acknowledgement section showed Myers as the seller and Denis
6 as the buyer. Mowry was shown as both the listing agent and the selling agent. Myers
7 accepted the Denis offer on October 4, 2008 at 1:00 PM.

8 3.5 The earnest money agreement included a provision for Denis to have 10
9 business days for professional inspections. On or about October 10, 2008, a pest and dry rot
10 and roof inspection was conducted on the subject property. Among other things, the inspector
11 concluded there was wood rot in a post at the rear entry steps; wood rot at two posts under the
12 steps; no siding at the front NE corner of the garage; siding corners missing from the garage;
13 and wood rot damage in the east wall of the upstairs.

14 3.6 On or about October 13, 2008, Denis contacted Mowry to terminate the contract.
15 According to Denis, Mowry hung up on Denis and Denis called back and talked to Mills-
16 Schremm. Denis told Mills-Schremm that she wanted to terminate the earnest money
17 agreement and that she wanted her \$5,000 earnest money returned.

18 3.7 Mills-Schremm prepared a termination agreement with the buyer and seller
19 information on it. Mills-Schremm also added "Dispersement of earnest money deposit" on line
20 10 so that the the termination agreement read: "Buyer and seller release each other from all
21 obligations under the transaction contemplated by the Real Estate Sale Agreement, except
22 Dispersement of earnest money deposit." Mills-Schremm faxed the termination agreement to
23 Denis. Denis signed and faxed the termination agreement back to Mills-Schremm on October
24 13, 2008.

25 **Violation:** By preparing a termination form for Denis that included an exception for the
26 earnest money agreement and not including the reason for termination based on the
27 inspection report, Mills-Schremm failed to be loyal to the buyer by taking action that is adverse
28 or detrimental to the buyer's interest in the transaction in violation of ORS 696.810(3)(c) and is
29 subject to sanction in accordance with ORS 696.301(3).

30 ///

1 3.8 According to Denis, Myers told Denis that Mills-Schremm advised Myers not to
2 sign the termination agreement and that the earnest money belonged to Myers.

3 **Violation:** By advising Myers not to sign the termination agreement because the
4 earnest money belonged to Myers, Mills-Schremm failed to be loyal to the buyer by taking
5 action that is adverse or detrimental to the buyer's interest in the transaction in violation of
6 ORS 696.810(3)(c) and is subject to sanction in accordance with ORS 696.301(3).

7 3.9 On April 29, 2009, an OREA investigator met with Mills-Schremm at Mills-
8 Schremm's personal residence, which was the main office address at the time. The
9 residence/office was on Timberline Drive in Eugene, Oregon. OREA records showed Mills-
10 Schremm's residence address on Countryside Lane, not Timberline Drive. Mills-Schremm
11 indicated that she had moved. Mills-Schremm failed to notify OREA of a change of address.

12 **Violation:** By failing to notify OREA of a change of address, Mills-Schremm failed to
13 update her mailing address when she changed her place of business in violation of OAR 863-
14 014-0062(1) and is subject to sanction in accordance with ORS 696.301(3).

15 3.10 Mills-Schremm did not have a business sign visible at the Timberline Drive
16 address indicating it as her place of business.


17 **Violation:** By failing to have a sign designating the address as her place of business,
18 Mills-Schremm violated ORS 696.200(1) and is subject to sanction in accordance with ORS
19 696.301(3).

20 **ORDER**

21 IT IS HEREBY ORDERED that Mills-Schremm's real estate license be suspended for
22 30 days, with said suspension to commence and be effective on the 1st day of June, 2010.

23
24 Dated this 12th day of May, 2010.

25 **OREGON REAL ESTATE AGENCY**

26
27 
28
29 **GENE BENTLEY**
30 **Real Estate Commissioner**

1 DATE of service: 5.12.10

2

3 NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by
4 filing a petition for review within 60 days from the date of service of this order. Judicial review
5 is pursuant to the provisions of ORS 183.482.

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1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
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4 In the Matter of the Property Manager's
5 License of
6
7 DEBRA K. MITZEL
8

ORDER ON DEFAULT

9 1.

10 1.1 On March 23, 2010, the Real Estate Commissioner issued, by certified mail, a
11 notice of intent to revoke the property manager's license of Debra K. Mitzel (Mitzel). The Real
12 Estate Agency (OREA) sent the notice of intent to Mitzel's last known address of record with
13 the OREA. The notice of intent was also mailed to Mitzel by regular first class mail in a
14 handwritten envelope.

15 1.2 Mitzel's address of record at the time of the March 23, 2010 mailing was 216
16 14th St, Oregon City, OR 97045. Both the certified mailing and the first class mailing in the
17 handwritten envelope were returned with the forward address of PO Box 1309, Molalla OR
18 97030. OREA sent the notice of intent to the Molalla address on April 14, 2010 by certified
19 mail as well as first class mail in a handwritten envelope. Mitzel received and signed for the
20 certified mailing on April 16, 2010. The first class mailing was not returned to OREA.

21 1.3 Over twenty (20) days have elapsed since the mailing of the notice issued in this
22 matter and no written request for hearing has been received.

23 1.4 Copies of the entire investigation file are entered into the record and made a part
24 of this order as is all information in the administrative file relating to the mailing of notices and
25 any responses received.

26 2.

27 Based upon the foregoing and upon a review of the above described investigation
28 reports, documents and files, the Real Estate Commissioner finds:

29 2.1 Mitzel's last known address of record with OREA was PO Box 1309, Molalla OR
30 97030.

1 requested records or otherwise allow OREA access to the requested records or accounts.

2 **Licensee's failure to provide the requested records violates ORS 696.241(2), (3), ORS**
3 **696.301(3).**

4 3.6 OREA obtained various documents regarding the Sykes properties from Sykes
5 and from Brainard. These records indicated that the tenant security deposits were maintained
6 in the APM CTA instead of a security deposit CTA. **Licensee's failure to maintain the**
7 **tenant security deposits in a security deposit CTA account violates ORS 696.301(3);**
8 **OAR 863-025-0025(2) (2006 edition, 4-15-06).**

9 3.7 Property management agreements require, among other things, the term of the
10 agreement, an identifying code, the signature of the property manager and the date of the
11 agreement. The property management agreements for 1513 and 1519 Monroe Street did not
12 comply with any of these requirements. **Licensee's failure to comply with these**
13 **requirements violates ORS 696.301(3); OAR 863-025-0020(2)(d), (k), (L), (m) (2006**
14 **edition, 4-15-06), respectively. In addition, the property management agreement for 802**
15 **Washington Street did not contain the property manager's signature in violation of OAR**
16 **863-025-0020(2)(L) (2006 edition, 4-15-06).**

17 3.8 The agreements for 1513 and 1519 Monroe Street provided that APM was to
18 maintain owner reserves of \$300 and \$100, respectively. The documents received by OREA
19 indicated there were no reserves for either property maintained in a CTA. **Licensee's failure**
20 **to keep reserves as provided in the agreements violates ORS 696.301(12).**

21 3.9 APM staff performed work on the Monroe and Washington Street properties and
22 invoiced Sykes for the work. None of the agreements for each property disclosed that work
23 would be performed by employees or a business in which the Licensee had a pecuniary
24 interest. **Licensee's failure to include the disclosure in each agreement violates ORS**
25 **696.301(3); OAR 863-025-0020(2)(i) (2006 edition, 4-15-06).**

26 3.10 On January 18, 2008 there were two checks delivered to Sykes written on an
27 APM CTA through Wells Fargo Bank. The account that the checks were written from was not
28 on file with the OREA as a CTA in use by APM. **Licensee's failure to file a form identifying**
29 **the Wells Fargo account violates ORS 696.241(2); ORS 696.301(3).**

30 ///

1 3.11 Cash flow statements showed that there was negative cash flow on each of the
2 following properties as follows:

3 (a) 1513 Monroe Street: Negative cash flow for April, May, July, September and
4 November, 2007;

5 (b) 1519 Monroe Street: Negative cash flow for March, May, August, October and
6 November, 2007;

7 (c) 802 Washington Street: Negative cash flow for January, May, June and October,
8 2007.

9 **Licensee failed to ensure that there were available funds prior to making**
10 **disbursements as alleged above in violation of ORS 696.301(3), (12); OAR 863-025-**
11 **0025(11) (2006 edition, 4-15-06).**

12 3.12 Review of accounts labeled as syke01, syke02 and syke03 showed duplicate
13 charges for carpet, maintenance and carpet cleaning. APM invoices for work showed no sign
14 of authorization by the Sykes, and showed no receipts for materials charges. **Licensee's**
15 **charging for unauthorized work; charging for duplicate work, or charging for work or**
16 **materials that was not supported by receipts violates ORS 696.301(14). Licensee's**
17 **failure to keep receipts for work allegedly performed violates ORS 696.301(3); OAR 863-**
18 **025-0055(5) (2006 edition, 4-15-06).**

19 3.13 For the accounts referenced in paragraph 1.12, there were also charges made
20 for management fees and other charges that caused negative balances on the ledgers
21 accounts. **Licensee's failure to ensure that there were adequate funds to cover charges**
22 **violates ORS 696.301(3); OAR 863-025-0025(11) (2006 edition, 4-15-06).**

23 3.14 Licensee managed the property located at 8056 SE Harold St without a written
24 property management agreement. **Licensee's failure to have a written property**
25 **management agreement violates ORS 696.301(3); OAR 863-025-0020(1) (2006 edition, 4-**
26 **15-06).**

27 3.15 The general ledgers showed that Licensee paid \$538.25 in syke02 expenses
28 from the syke01 and syke03 CTA. There was no provision in the property management
29 agreements providing for transfer of funds among different accounts. **Licensee's transfer of**
30 **///**

1 funds as alleged violates ORS 696.301(3); OAR 863-025-0025(13)(a) (2006 edition, 4-15-06).

2 3.16 Tenant security deposits were deposited into the Sykes CTAs but were not
3 transferred to the tenants' security deposit CTA. **Licensee's failure to deposit the tenant**
4 **security deposits into the security deposit CTA violates ORS 696.301(3); OAR 863-025-**
5 **0025(3); OAR 863-025-0030(1) (2006 edition, 4-15-06).**

6 3.17 The Sykes were not notified at any time that Mitzel was transferring the property
7 management responsibilities for their properties to Brainard. **Failing to notify the Sykes of**
8 **this change violates ORS 696.301(3) and OAR 863-025-0070 (2006 edition, 4-15-06).**

9 ORDER

10 IT IS HEREBY ORDERED that the property manager's license of Mitzel be revoked,
11 with said revocation effective the date of this order.

12
13 Dated this 5th day of May, 2010.

14
15 OREGON REAL ESTATE AGENCY

16
17 

18
19 GENE BENTLEY
20 Real Estate Commissioner

21
22 DATE of service: 5-5-10

23
24 NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by
25 filing a petition for review within 60 days from the date of service of this order. Judicial review
26 is pursuant to the provisions of ORS 183.482.

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Property Manager's
5 License of
6
7 DEVON L. NOFZIGER
8

)
STIPULATED FINAL ORDER

9
10 The Real Estate Agency (OREA) and Devon L. Nofziger (D. Nofziger) do hereby agree
11 and stipulate to the following:

12 FINDINGS OF FACT
13 CONCLUSIONS OF LAW

14 1.

15 1.1 At all times mentioned herein, D. Nofziger was licensed as a property manager
16 with Rental Services, Inc. (RSI). Veronica K. Nofziger (V. Nofziger) is also licensed as a
17 property manager with RSI. D. Nofziger and V. Nofziger are husband and wife and are the
18 owners of RSI.

19 1.2 On January 4, 2010, RSI's security deposit client trust account #6298 (SD CTA
20 #6298) was randomly chosen by OREA's computer system for a mail-in audit. The mail-in
21 audit request sent to RSI requested a complete reconciliation of the SD CTA #6298 for the
22 month of December 2009.

23 1.3 OREA received the requested reconciliation from D. Nofziger on February 8,
24 2010. The reconciliation showed that SD CTA #6298 was short by approximately
25 \$146,925.77.

26 1.4 On March 23, 2010, an investigation file was opened and assigned to
27 Auditor/Investigator Deanna Hewitt (Hewitt). Hewitt advised Graham that she had been
28 assigned to the file and Graham requested a meeting with Hewitt. Graham provided Hewitt a
29 file that contained the December 2009 reconciliation of the SD CTA #6298.
30

1 1.5 When reviewing the reconciliation provided by Graham for SD CTA #6298,
2 Hewitt discovered a December 2009 reconciliation for another client trust account, property
3 owners client trust account #7148 (PO CTA #7148), which was short by \$160,000. 1.6 After a
4 complete review of the documentation provided by Graham on behalf of the Nofzigers and
5 interviews with the Nofzigers, the following items are noted:

6 (a) D. Nofziger initiated a business called Apartment Maintenance Service, Inc.
7 (AMSI) to be used as a maintenance company for properties managed by RSI.

8 (b) From February 1, 2007 to November 19, 2009, D. Nofziger wrote checks to AMSI
9 from the PO CTA #7148 that were not for maintenance or repair, but that he cashed for his
10 own personal use. The total of these checks was \$302,556.23.

11 **Violation:** By taking funds belonging to property owners for his own personal use, D.
12 Nofziger violated ORS 696.301(12), (14), (15)

13 (c) In October and November 2009, D. Nofziger wrote three checks totaling
14 \$149,000 from the SD CTA #6298 and deposited those checks into the PO CTA #7148 to
15 cover some of the shortage in the PO CTA #7148.

16 **Violation:** By taking funds belonging to property tenants to cover the shortage in the
17 PO CTA #7148, D. Nofziger violated ORS 696.301(12), (14), (15)

18 1.7 D. Nofziger did not have authorization from any owner to transfer funds from the
19 PO CTA #7148, a pooled owner account.

20 **Violation:** By transferring funds without authorization, D. Nofziger violated OAR 863-
21 025-0025(3) (eff. 9-15-06 to 3-12-07); OAR 863-025-0025(12) (eff. 3-12-07) and is subject to
22 sanction pursuant to ORS 696.301(3).

23 1.8 Hewitt requested copies of the CTAs' monthly reconciliations and D. Nofziger
24 stated that there were no CTA reconciliations after March of 2008 when the bookkeeper was
25 let go.

26 **Violation:** By failing to do reconciliations each month since March, 2008, D. Nofziger
27 violated OAR 863-025-0025(19), (20) (2008 Edition, 11-15-07) and OAR 863-025-0025(20),
28 (21) (2009 Edition, 11-14-08) and is subject to sanction pursuant to ORS 696.301(3).

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ORDER

IT IS HEREBY ORDERED that Devon L. Nofziger's property manager license is
revoked, with said revocation to be effective on the 13 day of July,
2010.

IT IS SO STIPULATED:

IT IS SO ORDERED:

Devon L. Nofziger

Gene Bentley

DEVON L. NOFZIGER

GENE BENTLEY
Real Estate Commissioner

Date 7/12/10

Date 7.13.10

DATE of service: 7-20-10

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Property Manager's
5 License of
6
7 VERONICA K. NOFZIGER
8

}
} STIPULATED FINAL ORDER
}

9
10 The Real Estate Agency (OREA) and Veronica K. Nofziger (V. Nofziger) do hereby
11 agree and stipulate to the following:

12 FINDINGS OF FACT
13 CONCLUSIONS OF LAW

14 1.

15 1.1 At all times mentioned herein, V. Nofziger was licensed as a property manager
16 with Rental Services, Inc. (RSI). Devon L. Nofziger (D. Nofziger) is also licensed as a property
17 manager with RSI. D. Nofziger and V. Nofziger are husband and wife and are the owners of
18 RSI.

19 1.2 On January 4, 2010, RSI's security deposit client trust account #6298 (SD CTA
20 #6298) was randomly chosen by OREA's computer system for a mail-in audit. The mail-in
21 audit request sent to RSI requested a complete reconciliation of the SD CTA #6298 for the
22 month of December 2009.

23 1.3 OREA received the requested reconciliation from D. Nofziger on February 8,
24 2010. The reconciliation showed that SD CTA #6298 was short by approximately
25 \$146,925.77.

26 1.4 On March 23, 2010, an investigation file was opened and assigned to
27 Auditor/Investigator Deanna Hewitt (Hewitt). Hewitt advised Graham that she had been
28 assigned to the file and Graham requested a meeting with Hewitt. Graham provided Hewitt a
29 file that contained the December 2009 reconciliation of the SD CTA #6298.
30

1 1.5 When reviewing the reconciliation provided by Graham for SD CTA #6298,
2 Hewitt discovered a December 2009 reconciliation for another client trust account, property
3 owners client trust account #7148 (PO CTA #7148), which was short by \$160,000.

4 1.6 After a complete review of the documentation provided by Graham on behalf of
5 the Nofzigers and interviews with the Nofzigers, the following items are noted:

6 (a) D. Nofziger initiated a business called Apartment Maintenance Service, Inc.
7 (AMSI) to be used as a maintenance company for properties managed by RSI.

8 (b) From February 1, 2007 to November 19, 2009, D. Nofziger wrote checks to AMSI
9 from the PO CTA #7148 that were not for maintenance or repair, but that he cashed for his
10 own personal use. The total of these checks was \$302,556.23.

11 (c) In October and November 2009, D. Nofziger wrote three checks totaling
12 \$149,000 from the SD CTA #6298 and deposited those checks into the PO CTA #7148 to
13 cover some of the shortage in the PO CTA #7148.

14 1.7 Hewitt requested copies of the CTAs' monthly reconciliations and D. Nofziger
15 stated that there were no CTA reconciliations after March of 2008 when the bookkeeper was
16 let go.

17 **Violation:** By failing to reconcile RSI's security CTA and property owners CTA each month
18 since March 2008, V. Nofziger violated OAR 863-025-0025(19), (20) (2008 Edition, 11-15-07)
19 and OAR 863-025-0025(20), (21) (2009 Edition, 11-14-08) and is subject to sanction pursuant
20 to ORS 696.301(3). Licensee's conduct also demonstrated incompetence or
21 untrustworthiness in violation of ORS 696.301(12); and was conduct that was below the
22 standard of care for the practice of professional real estate activity in violation of ORS
23 696.301(15),

24 1.8 A review of OREA records indicates that in 2003, a compliance audit was
25 completed by OREA for RSI. At that time, it was noted that the CTA was \$2,600 short and the
26 Nofzigers were instructed to deposit funds into the CTA to remedy the shortage. The
27 compliance audit form was signed by D. Nofziger.

28 1.9 V. Nofziger delegated her authority to review and approve reconciliations and to
29 receive and disburse funds for the CTAs to D. Nofziger, but remains responsible for all funds
30 and transactions. As a licensed property manager and President of RSI, V. Nofziger failed to

1 oversee the CTAs that she was responsible for maintaining and failed to supervise the person
2 she had allowed to maintain the CTAs, D. Nofziger.

3 **Violation:** By failing to oversee each CTA and failing to supervise the maintenance of
4 each CTA, Licensee violated OAR 863-025-0025(21) (2008 Edition, 11-15-07) and is subject
5 to sanction pursuant to ORS 696.301(3). Licensee's conduct demonstrated incompetence or
6 untrustworthiness in violation of ORS 696.301(12); and was conduct that was below the
7 standard of care for the practice of professional real estate activity in violation of ORS
8 696.301(15).

9 STIPULATION & WAIVER

10 I have read and reviewed the above findings of fact and conclusions of law which have
11 been submitted to me by OREA and further, the order which follows hereafter. I understand
12 that the findings of fact, conclusions of law and this stipulation and waiver embody the full and
13 complete agreement and stipulation between OREA and myself. I further understand that if I
14 do not agree with this stipulation I have the right to request a hearing on this matter and to be
15 represented by legal counsel at such a hearing. Hearings are conducted in accordance with
16 the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and
17 Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily
18 waive my rights to a hearing, to representation by legal counsel at such a hearing, and to
19 judicial review of this matter.

20 I hereby agree and stipulate to the above findings of fact and conclusions of law and
21 understand that the order which follows hereafter may be completed and signed by the Real
22 Estate Commissioner or may be rejected by the Real Estate Commissioner, in which case an
23 amended notice of intent may be issued in this matter. I understand that, in accordance with
24 the provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real
25 Estate News Journal.

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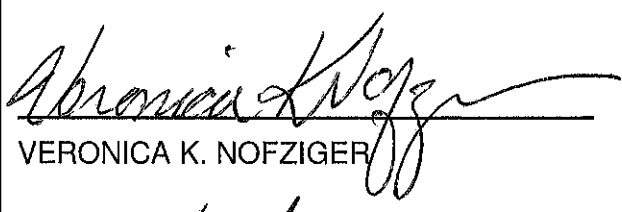
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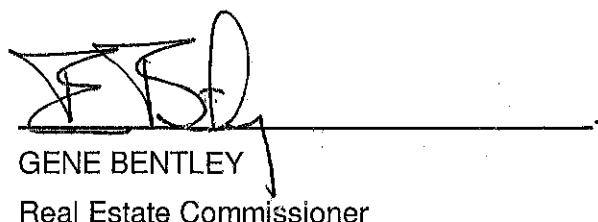
ORDER

IT IS HEREBY ORDERED that Veronica K. Nofziger's property manager license is revoked, with said revocation to be effective on the 11th day of August, 2010.

IT IS SO STIPULATED:

IT IS SO ORDERED:


VERONICA K. NOFZIGER


GENE BENTLEY
Real Estate Commissioner

Date 8/10/2010

Date 8.16.10

DATE of service: 8-17-10

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate Broker's
5 License of
6
7 RICHARD J. OSMON
8

}
STIPULATED FINAL ORDER

9
10 The Real Estate Agency (OREA) and Richard J. Osmon (Osmon) do hereby agree and
11 stipulate to the following:

12 FINDINGS OF FACT

13 1.

14 1.1 At all times mentioned herein, Osmon was licensed as a principal broker with
15 Century 21 All Professionals Real Estate.

16 1.2 OREA received two complaints regarding the activities of Betty D. Word (Word),
17 a real estate broker licensed with Century 21 All Professionals Real Estate. In the first file
18 (200901-012) Word represented Pamela Golarz and Todd Word as buyers. Word prepared
19 three offers for her buyers.

20 1.3 There were two different versions of the second offer in the file at Century 21 All
21 Professionals Real Estate. A number of discrepancies were found between the two offers.
22 These two offers differed from the offer in the listing office file. Osmon reviewed and initialed
23 one version of the offer on September 23, 2008 and the other version on October 27, 2008.
24 Osmon was unclear as to why there were two different versions of the same offer in his file.
25 Osmon did not ask Word to rewrite or change the offer.

26 **Violation:** By failing to supervise Word in the fulfillment of her duties and obligations to
27 her clients by initialing two different versions of the same offer, Osmon violated OAR 863-015-
28 0140(6) and is subject to sanction pursuant to ORS 696.301(3).

29 1.4 In the second complaint (200906-389), Word represented Vanessa Nelson
30 Hollenbeck as the seller. The following items were noted:

- 1 (a) Osmon allowed Word to sign Osmon's name on the listing agreement;
2 (b) Osmon allowed Word to sign Osmon's initials on an addendum;
3 (c) Word wrote an addendum that did not identify the earnest money agreement, the
4 property address, the buyers or the seller;
5 (d) Osmon reviewed and initialed an addendum concerning repairs, but failed to
6 assure that Word provided him with a copy of the inspection report, repair list, or written cost
7 estimate for the repair work;
8 (e) Word wrote a seller's counter offer on an addendum form without indicating that
9 the addendum was the seller's counter offer;

10 1.5 The seller contacted Osmon and indicated that she wanted Word removed as the
11 seller's agent. Osmon indicated to the seller that he would review the file and address the
12 issues. Osmon did not address the concerns of the seller and remove Word as the seller's
13 agent.

14 2.

15 2.1 OREA reserves the right to investigate and pursue additional complaints that
16 may be received in the future regarding this licensee.

17 2.2 In establishing the violations alleged above, OREA may rely on one or more
18 definitions contained in ORS 696.010.

19 CONCLUSION OF LAW

20 By failing to supervise Word's activities in the two transactions described above, Osmon
21 violated OAR 863-015-0140(6) (2008 Edition, 11-5-07) and OAR 863-015-0140(4) (2009
22 Edition, 1-1-09) and is subject to sanction pursuant to ORS 696.301(3).

23 STIPULATION & WAIVER

24 I have read and reviewed the above findings of fact and conclusions of law which have
25 been submitted to me by OREA and further, the order which follows hereafter. I understand
26 that the findings of fact, conclusions of law and this stipulation and waiver embody the full and
27 complete agreement and stipulation between OREA and myself. I further understand that if I
28 do not agree with this stipulation I have the right to request a hearing on this matter and to be
29 represented by legal counsel at such a hearing. Hearings are conducted in accordance with
30 the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and

1 Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily
2 waive my rights to a hearing, to representation by legal counsel at such a hearing, and to
3 judicial review of this matter.

4 I hereby agree and stipulate to the above findings of fact and conclusions of law and
5 understand that the order which follows hereafter may be completed and signed by the Real
6 Estate Commissioner or may be rejected by the Real Estate Commissioner, in which case an
7 amended notice of intent may be issued in this matter. I understand that, in accordance with
8 the provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real
9 Estate News Journal.

10 ORDER

11 IT IS HEREBY ORDERED that Osmon's real estate license be suspended for a period
12 of forty-five (45) days, from June 15, 2010 to July 30, 2010.

13 IT IS FURTHER ORDERED that Osmon enroll in and successfully complete a course in
14 Broker Administration and Sales Supervision (BASS). Successfully complete means a grade
15 of "C" or better or "Pass" in a Pass/No Pass situation. Notice of successful completion of the
16 education must be provided to the Real Estate Commissioner no later than July 31, 2010.

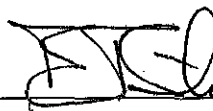
17 IT IS FURTHER ORDERED that should notice of successful completion not be received
18 by July 31, 2010, Osmon's real estate license will remain suspended until such time as the
19 Real Estate Commissioner is provided notice of successful completion of the ordered
20 education.

21
22 IT IS SO STIPULATED:

IT IS SO ORDERED:

23
24
25 

26 RICHARD J. OSMON

23
24
25 

26 GENE BENTLEY
27 Real Estate Commissioner

28 Date 6/30/2010

28 Date 7-1-10

29
30 DATE of service: 7-1-10

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate Broker's
5 License of
6
7 A. ERIC OWENS
8

}
} STIPULATED FINAL ORDER
}

9 The Real Estate Agency (OREA) and A. Eric Owens (Owens) do hereby agree and
10 stipulate to the following:

11 FINDINGS OF FACT

12 Prior to January 1, 2010, Owens was licensed as real estate broker with World Wide
13 Realty, Inc. Owens's license expired on December 31, 2009 and was not renewed until April
14 7, 2010. During the time Owens's license was expired, January 2, 2010 to April 6, 2010, 97
15 days, Owens continued conducting professional real estate activity as if actively licensed.

16 CONCLUSION OF LAW

17 By conducting professional real estate activity over the course of 97 days after his
18 license expired and before reactivating it, Owens violated ORS 696.020(2) and is subject to
19 discipline or civil penalty pursuant to ORS 696.301(3).

20 STIPULATION & WAIVER

21 I have read and reviewed the above findings of fact and conclusions of law which have
22 been submitted to me by OREA and further, the order which follows hereafter. I understand
23 that the findings of fact, conclusions of law and this stipulation and waiver embody the full and
24 complete agreement and stipulation between OREA and myself. I further understand that if I
25 do not agree with this stipulation I have the right to request a hearing on this matter and to be
26 represented by legal counsel at such a hearing. Hearings are conducted in accordance with
27 the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and
28 Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily
29 waive my rights to a hearing, to representation by legal counsel at such a hearing, and to
30 judicial review of this matter.

1 I hereby agree and stipulate to the above findings of fact and conclusions of law and
2 understand that the order which follows hereafter may be completed and signed by the Real
3 Estate Commissioner or may be rejected by the Real Estate Commissioner, in which case an
4 amended notice of intent may be issued in this matter. I understand that, in accordance with
5 the provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real
6 Estate News Journal.

7 ORDER

8 IT IS HEREBY ORDERED that pursuant to ORS 696.990(1) to (9) and based upon the
9 violation set forth above, Owens pay a civil penalty in the sum of \$1,100, said penalty to be
10 paid to the General Fund of the State Treasury by paying the same to the OREA. The civil
11 penalty is computed in accordance with ORS 696.990(4) and (8) in that each 30-day period of
12 unlicensed activity is considered one violation. In this instance, there were three 30-day
13 periods of unlicensed activity.

14
15 IT IS SO STIPULATED:

IT IS SO ORDERED:

16
17 
18 _____

19 A. ERIC OWENS

20
21 Date

6-30-10

22
23 
24 _____

25 GENE BENTLEY

26 Real Estate Commissioner

27 Date

7.1.10

28
29 DATE of service:

7-6-10

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate Broker's
5 License of
6
7 KENNETH JAMES SMITH
8

MODIFIED STIPULATED ORDER

9
10 WHEREAS, on March 31, 2010, the Real Estate Commissioner signed an Order on
11 Default suspending the real estate license of Kenneth James Smith (Smith) for a period of one
12 (1) year, effective March 31, 2010, and

13 WHEREAS, subsequent to the issuance of the default order, Smith requested the
14 Agency reconsideration of the Order on Default, and

15 WHEREAS, the parties now agree that this matter is best resolved through an informal
16 disposition by entry of a Modified Stipulated Order; and

17 WHEREAS, Smith waives his right to a hearing and to any appeal therefrom by entry of
18 this Modified Stipulated Order; and

19 WHEREAS, the parties stipulate to the following:

20 FINDINGS OF FACT

21 CONCLUSIONS OF LAW

22 1.1 At all times mentioned herein, Smith was licensed as a broker with Uptown Real
23 Estate. During this time, Smith was also licensed as a mortgage broker.

24 1.2 In September 2007, OREA received a complaint from Michael Means (Means)
25 regarding Smith and Jeremy Jordan (Jordan), both licensed with Uptown Real Estate. Means
26 was having financial difficulties with his real property and Smith and Jordan were working with
27 Means to help Means keep his property. Means alleged that Smith did not disclose that
28 Jordan was a real estate licensee; that Jordan said he would buy Means' house for \$219,000
29 and give Means a lease option for 13 months to buy the house back at \$219,000. Means also
30 alleged that there were issues with the sale and the lease with option to purchase.

1 1.3 On January 25, 2006, sale agreement #1659223 was prepared by Jordan with
2 Means as the seller and Jordan as the buyer. Smith was shown as the buyer's broker. There
3 was no disclosure that the buyer, Jordan, was a real estate licensee.

4 **Violation:** By failing to disclose Jordan's licensed status on sale agreement #1659223,
5 Smith violated ORS 696.810(2)(a)(c) and is subject to sanction pursuant to ORS 696.301(3).

6 1.4 Sale agreement #1659223 did not have a record of when the offer was submitted
7 to Means.

8 **Violation:** By failing to record the date and time sale agreement #1659223 was
9 presented to Means, Smith violated OAR 863-015-0135(3) (2005 Edition, 7/15/05) and is
10 subject to sanction pursuant to ORS 696.301(3).

11 1.5 Means was provided a promissory note for earnest money, but the promissory
12 note was not signed or dated, only referenced by sales agreement #1659223.

13 **Violation:** By failing to ensure that the earnest money promissory note for sale
14 agreement #1659223 was signed, Smith demonstrated incompetence or untrustworthiness in
15 violation of ORS 696.301(12).

16 1.6 On January 31, 2006, sale agreement #1659227 was prepared by Jordan with
17 Means as the seller and Smith as the buyer. Jordan was listed as both the listing and selling
18 broker. The sales agreement included provisions for a \$500 promissory note that was due and
19 payable 7 business days after mutual acceptance. Sale agreement #1659223 was not
20 terminated before entering into sale agreement #1653227.

21 **Violation:** By failing to terminate the January 25, 2006 sale agreement (#1659223)
22 before entering into the January 31, 2006 sale agreement (#1653227), Smith demonstrated
23 incompetence or untrustworthiness in performing an act for which he is required to hold a
24 license, in violation of ORS 696.301(12).

25 1.7 The transaction (#1653227) closed April 21, 2006. The settlement statement
26 shows that "Smith and Jordan" received \$5,354.06 for mortgage broker activity. Smith did not
27 disclose in writing on the sale agreement that either Smith or Jordan were to receive any funds
28 for mortgage broker activity.

29 **Violation:** By failing to disclose in writing that Smith and Jordan were receiving funds
30 for their mortgage broker activity in the subject transaction, Smith failed to deal honestly and in

1 good faith with Means in violation of ORS 696.810(2)(a) and is subject to sanction pursuant to
2 ORS 696.301(3).

3 1.8 On multiple occasions beginning May 15, 2008, OREA requested documentation
4 for the Means transaction from Smith. Despite many attempts, Smith only provided OREA with
5 the documents contained in Exhibits 14 through 21 of the Means investigation report. Smith
6 did not provide the requested documents as requested in file Exhibits 68 through 71.

7 **Violation:** By failing to provide and/or maintain all records of the Means transaction for
8 OREA's examination, Smith failed to keep his real estate records open at all times for
9 inspection by OREA in violation of ORS 696.280(3) and is subject to sanction pursuant to ORS
10 696.301(3).

11 NOW THEREFORE, IT IS HEREBY ORDERED that the Order on Default issued on
12 March 31, 2010 be withdrawn, and

13 IT IS FURTHER ORDERED that Smith's real estate broker's license be suspended for a
14 period of one (1) month, April 1, 2010 thru April 30, 2010.

15
16 IT IS SO STIPULATED:

17
18
19 
20 _____
21 KENNETH JAMES SMITH

22 Date 6-8-10

IT IS SO ORDERED:

23
24
25 
26 _____
27 GENE BENTLEY
28 Real Estate Commissioner

29 Date 6-15-10

30
DATE of service: 6-15-10

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate Broker's
5 License of
6
7 KENNETH JAMES SMITH
8

ORDER ON DEFAULT

9
10 1.

11 1.1 On March 8, 2010, the Real Estate Commissioner issued, by certified mail, a
12 notice of intent to suspend the real estate broker's license of Kenneth James Smith (Smith).
13 The Real Estate Agency (OREA) sent the notice of intent to Smith's last known address of
14 record with the OREA. The notice of intent was also mailed to Smith by regular first class mail
15 in a handwritten envelope.

16 1.2 The certified mailing was returned to OREA as "unclaimed". The first class
17 mailing in the handwritten envelope has not been returned to OREA.

18 1.3 Over twenty (20) days have elapsed since the mailing of the notice issued in this
19 matter and no written request for hearing has been received.

20 1.4 Copies of the entire investigation file are entered into the record and made a part
21 of this order as is all information in the administrative file relating to the mailing of notices and
22 any responses received.

23 2.

24 Based upon the foregoing and upon a review of the above described investigation
25 reports, documents and files, the Real Estate Commissioner finds:

26 2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is
27 properly served when deposited in the United States mail, registered or certified mail,
28 addressed to the real estate licensee or to any other person having an interest in a proceeding
29 before the Commissioner at the licensee's or other person's last known address of record with
30 OREA.

1 **Violation:** By failing to record the date and time sale agreement #1659223 was
2 presented to Means, Smith violated OAR 863-015-0135(3) (2005 Edition, 7/15/05) and is
3 subject to sanction pursuant to ORS 696.301(3).

4 3.5 Means was provided a promissory note for earnest money, but the promissory
5 note was not signed or dated, only referenced by sales agreement #1659223.

6 **Violation:** By failing to ensure that the earnest money promissory note for sale
7 agreement #1659223 was signed, Smith demonstrated incompetence or untrustworthiness in
8 violation of ORS 696.301(12).

9 3.6 On January 31, 2006, sale agreement #1659227 was prepared by Jordan with
10 Means as the seller and Smith as the buyer. Jordan was listed as both the listing and selling
11 broker. The sales agreement included provisions for a \$500 promissory note that was due and
12 payable 7 business days after mutual acceptance. Sale agreement #1659223 was not
13 terminated before entering into sale agreement #1653227.

14 **Violation:** By failing to terminate the January 25, 2006 sale agreement (#1659223)
15 before entering into the January 31, 2006 sale agreement (#1653227), Smith demonstrated
16 incompetence or untrustworthiness in performing an act for which he is required to hold a
17 license, in violation of ORS 696.301(12).

18 3.7 The transaction (#1653227) closed April 21, 2006. The settlement statement
19 shows that "Smith and Jordan" received \$5,354.06 for mortgage broker activity. Smith did not
20 disclose in writing on the sale agreement that either Smith or Jordan were to receive any funds
21 for mortgage broker activity.

22 **Violation:** By failing to disclose in writing that Smith and Jordan were receiving funds
23 for their mortgage broker activity in the subject transaction, Smith failed to deal honestly and in
24 good faith with Means in violation of ORS 696.810(2)(a) and is subject to sanction pursuant to
25 ORS 696.301(3).

26 3.8 On multiple occasions beginning May 15, 2008, OREA requested documentation
27 for the Means transaction from Smith. Despite many attempts, Smith only provided OREA with
28 the documents contained in Exhibits 14 through 21 of the Means investigation report. Smith
29 did not provide the requested documents as requested in file Exhibits 68 through 71.

30 ///

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate Broker's
5 License of
6
7 BARBARA JEAN STAFFORD
8

STIPULATED FINAL ORDER

9
10 The Real Estate Agency (OREA) and Barbara Jean Stafford (Stafford) do hereby agree
11 and stipulate to the following:

12 FINDINGS OF FACT
13 AND
14 CONCLUSIONS OF LAW

15 1.

16 1.1 At all times mentioned herein, Stafford was licensed as a principal broker with
17 Century 21 Team Realty.

18 1.2 On December 2, 2009, OREA received a complaint from Robert "Bob" Johnson
19 (B. Johnson) concerning Stafford and her representation of B. Johnson in his attempted
20 purchase of 1609 Lincoln Street in North Bend OR (subject property).

21 1.3 On July 17, 2009, Stafford obtained a listing for the subject property from the
22 owner, Premiere Asset Services. On July 18, 2009, B. Johnson signed an offer to purchase
23 the subject property. Stafford represented both the buyer and the seller in this offer.

24 1.4 Page one of the offer showed a sales price of \$148,500 with \$1,000 earnest
25 money for a balance of \$147,500. Page seven of the offer shows that a \$500 promissory note
26 as payable on acceptance, which differs from the page one reference. Also on page one, the
27 box indicating how the transaction would be accomplished, by deed or contract, was not
28 marked.

29 **Violation:** By failing to ensure all the terms and conditions of the transaction were
30 clearly included in the offer to purchase, i.e. earnest money, promissory note, and whether the

1 transaction would be accomplished by way of deed or contract, Stafford violated OAR 863-
2 015-0135(5) and is subject to sanction pursuant to ORS 696.301(3).

3 1.5 On page seven of the offer, Stafford acknowledged receipt of a \$500 promissory
4 note, but did not have B. Johnson execute a promissory note. Stafford failed to bring a blank
5 promissory note for B. Johnson to execute.

6 **Violation:** By writing the offer receipting for a \$500 promissory note and failing to have
7 B. Johnson execute a promissory note, Stafford violated ORS 696.810(3)(a) through ORS
8 696.815(2)(b) and is subject to sanction pursuant to ORS 696.301(3).

9 1.6 Premiere Asset Services requires proof of funds or a pre-qualification letter be
10 submitted with all offers. Stafford did not advise B. Johnson that he needed proof of funds
11 before the offer was presented.

12 **Violation:** By failing to clearly notify B. Johnson that he was required to provide proof
13 of funds before the offer was submitted, Stafford violated ORS 696.810(3)(c) through ORS
14 696.815(2)(b) and is subject to sanction pursuant to ORS 696.301(3).

15 2.

16 2.1 OREA reserves the right to investigate and pursue additional complaints that
17 may be received in the future regarding this licensee.

18 2.2 In establishing the violations alleged above, OREA may rely on one or more
19 definitions contained in ORS 696.010.

20 STIPULATION & WAIVER

21 I have read and reviewed the above findings of fact and conclusions of law which have
22 been submitted to me by OREA and further, the order which follows hereafter. I understand
23 that the findings of fact, conclusions of law and this stipulation and waiver embody the full and
24 complete agreement and stipulation between OREA and myself. I further understand that if I
25 do not agree with this stipulation I have the right to request a hearing on this matter and to be
26 represented by legal counsel at such a hearing. Hearings are conducted in accordance with
27 the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and
28 Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily
29 waive my rights to a hearing, to representation by legal counsel at such a hearing, and to
30 judicial review of this matter.

1 I hereby agree and stipulate to the above findings of fact and conclusions of law and
2 understand that the order which follows hereafter may be completed and signed by the Real
3 Estate Commissioner or may be rejected by the Real Estate Commissioner, in which case an
4 amended notice of intent may be issued in this matter. I understand that, in accordance with
5 the provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real
6 Estate News Journal.

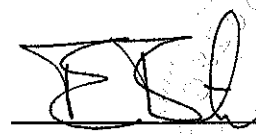
7 ORDER

8 IT IS HEREBY ORDERED that Stafford be, and hereby is, reprimanded.

9
10 IT IS SO STIPULATED:

IT IS SO ORDERED:

11
12
13 
14 BARBARA JEAN STAFFORD

15
16
17 
18 GENE BENTLEY
19 Real Estate Commissioner

20
21
22 Date June 8, 2010

23
24
25 Date 6.9.10

26
27
28 DATE of service: 6-10-10

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate Broker's
5 License of
6
7 SHERMAN D. TERRY
8

STIPULATED FINAL ORDER

9 The Real Estate Agency (OREA) and Sherman D. Terry (Terry) do hereby agree and
10 stipulate to the following:

11 FINDINGS OF FACT
12 CONCLUSIONS OF LAW

13 1.

14 1.1 At all times mentioned herein, Terry was licensed as a real estate broker with
15 Re/Max Integrity.

16 1.2 On June 10, 2009, Terry submitted his broker license renewal application. Terry
17 indicated that he had been convicted of a felony or misdemeanor criminal offense.

18 1.3 On August 4, 2009, OREA requested additional information from Terry regarding
19 the conviction he noted on his renewal form. Terry responded that incident in question
20 occurred in April 2008 and involved a rental property owned by Terry. Terry explained that he
21 was frustrated by his tenant not moving out, so he gave his tenant an eviction notice that Terry
22 had used for another tenant. Terry changed the names and address to suit his new tenant.
23 Terry admitted that his actions were poor judgment.

24 1.4 Terry plead no contest and was convicted in Lane County Circuit Court of
25 Forgery-2, a misdemeanor. Terry was also ordered to serve probation for 18 months, pay a
26 money award of \$633, and perform 80 hours of community service. Terry has completed the
27 probation and community service and has paid the money award to the court.

28 **Violation:** By altering an eviction notice that he gave to his tenant, Terry committed an
29 act of fraud or engaged in dishonest conduct substantially related to his fitness to conduct
30 professional real estate activity, in violation of ORS 696.301(14).

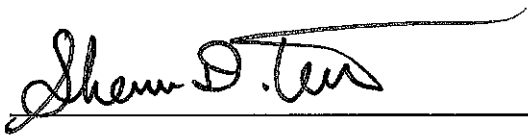
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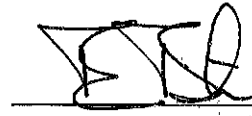
ORDER

IT IS HEREBY ORDERED that Terry's real estate license be suspended for a period of thirty (30) days, with said suspension to commence and be effective on the 1 day of August, 2010.

IT IS SO STIPULATED:

IT IS SO ORDERED:





SHERMAN D. TERRY

GENE BENTLEY

Real Estate Commissioner

Date 7/12/2010

Date 7.19.10

DATE of service: 7-20-10

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate Broker's
5 License of
6
7 KATHERINE M. WEST
8

ORDER ON DEFAULT

9 1.

10 1.1 On August 27, 2009, the Real Estate Commissioner issued, by certified mail, a
11 notice of intent to revoke the real estate broker's license of Katherine M. West (West). The
12 Real Estate Agency (OREA) sent the notice of intent to West's last known addresses of record
13 with OREA. The notice of intent was also mailed to West by regular first class mail in
14 handwritten envelopes. Both certified mailings were returned with the postal notation
15 "unclaimed". The mailings in the handwritten envelopes were not returned.

16 1.2 By letter dated September 14, 2009, West requested a hearing in this matter.

17 1.3 On October 12, 2009, the OREA file was forwarded to the Office of
18 Administrative Hearings. A hearing date was set for March 18, 2010 at 9:00 AM.

19 1.4 On February 23, 2010, an Amended Notice of Intent to Revoke was issued to
20 West. West received and signed for the certified mailing to her post office box address.

21 1.5 On March 2, 2010, West filed a request to postpone the hearing because of the
22 Amended Notice of Intent.

23 1.6 On March 2, 2010, a Second Amended Notice of Intent to Revoke was issued to
24 West. Both certified mailings were returned with the postal notation "unclaimed". The mailings
25 in the handwritten envelopes were not returned.

26 1.7 On March 3, 2010, West filed a second request to postpone the hearing because
27 of the Second Amended Notice of Intent. On March 4, 2010, the hearing was postponed.

28 1.8 On March 24, 2010, the hearing was set for May 5, 2010. By letter dated May 3,
29 2010, West notified the Office of Administrative Hearings that she would not appear at the
30 scheduled hearing and withdrew her request for hearing.

1 for about 20 years. West was the club treasurer from November 1, 2000, until she resigned on
2 May 22, 2007.

3 4.

4 4.1 As of November 3, 2000, there were three people listed on SPA's bank accounts
5 as authorized signers, West, Chuck Austin (Austin), and Charles Smith. Only one signature
6 was needed to issue a check at that time.

7 4.2 As Treasurer, West had the club's checks, sole signer capability, control of the
8 only key to the club's post office box, and the bank statements. The last audit of the club's
9 finances was in 2001.

10 4.3 In October 2006, Austin became aware that West had not shared certain
11 information regarding financial matters with McNary Field. West reported to the SPA that she
12 was handling matters of interest and there was nothing to worry about regarding the lease.

13 4.4 SPA was in the process of trying to remodel their hanger and according to
14 Austin, West appeared to be taking action to delay the progress. West told the members at a
15 monthly meeting that there was \$70,000 in the account for the remodeling project.

16 4.5 Austin went to West Coast Bank to access the accounts and discovered that he
17 no longer had access to the account. Austin later learned that the signature card was changed
18 on October 2, 2006, so that West was the only authorized signer on the account.

19 4.6 On November 1, 2006, Gary Lyon (Lyon) was elected as the club's President.
20 Austin met with Lyon to share his concerns and suspicions about West. In May 2007, Lyon
21 asked Austin to make further inquiries into the club's finances. Austin learned that the actual
22 balances in the club's bank accounts was significantly less than the \$70,000 that should have
23 been in the accounts.

24 4.7 On May 22, 2007, Austin and Lyon met with attorney David Hilgemann
25 (Hilgemann). Hilgemann advised them to call a special board meeting. West was invited to
26 the meeting and was also provided a copy of a proposed resolution that included the following:
27 (a) the return of club property; (b) access to the club's accounts; and (c) the appointment of
28 Austin, Lyon and John Pavelich as authorized signers on the bank accounts.

29 4.8 Hilgemann received a fax from West saying that she would not be attending the
30 meeting, was resigning, and that Keith Hayes (Hayes), attorney, would be representing her.

1 5.

2 5.1 Austin, Lyon and Pavelich went to West Coast Bank with a written resolution
3 approved by the board and signed by Lyon requesting access to the clubs' accounts. The
4 bank granted them access and they learned that the checking account balance was \$6,535.24
5 and the money market account balance was \$40.31. West had reported in the May 2007
6 meeting that the checking account balance was \$43,506.52 and the money market account
7 balance was \$29,107.28. During the course of other SPA board meetings in 2004, 2006 and
8 2007, West reported the balances of the money market account exceeding \$28,000, when the
9 actual balance did not exceed \$1,000.00.

10 5.2 On June 1, 2007, Austin met with Jim Sprow (Sprow), an expert in QuickBooks,
11 which is the financial program used by the club for its finances. Sprow was retained by SPA to
12 conduct an audit of the club's financial records. Sprow found the QuickBooks entries to be
13 okay, but that there were check numbers missing.

14 5.3 Sprow identified 64 checks as missing from the QuickBooks records for the SPA.
15 Austin identified the missing checks as unauthorized and negotiated by West.

16 5.4 Sprow received account records including bank statements for the SPA to
17 conduct his audit. Sprow compared the QuickBooks records against the bank statements and
18 found significant discrepancies. Sprow found that the balances listed in QuickBooks were
19 more than the actual balances listed on the bank statements.

20 5.5 Sprow's audit determined that there were total checking withdrawals of
21 \$106,468.23 that were unaccounted for.

22 5.6 Based on the information provided by Sprow, a total of \$42,536.80 was
23 deposited back into the account. The deposits appeared to be an effort to repay what was
24 taken. The net loss was shown as \$63,113.20.

25 5.7 Hilgemann presented the results of Sprow's audit to West's attorney, Hayes. No
26 response was received, and on August 22, 2007, Lyon, Austin and other SPA members went
27 to the Salem Police Department to make a report.

28 ///

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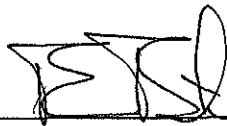
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ORDER

IT IS HEREBY ORDERED that West's real estate broker's license be revoked with said revocation to be effective on the 14th day of May, 2010.

Dated this 5th day of May, 2010.

OREGON REAL ESTATE AGENCY



GENE BENTLEY
Real Estate Commissioner

DATE of service: 5-5-10

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this order. Judicial review is pursuant to the provisions of ORS 183.482.

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate Broker's
5 License of
6
7 VICKI B. WHELCHER
8

STIPULATED FINAL ORDER

9
10 The Real Estate Agency (OREA) and Vicki B. Whelchel (Whelchel) do hereby agree
11 and stipulate to the following:

12 FINDINGS OF FACT
13 CONCLUSIONS OF LAW

14 1.

15 1.1 At all times mentioned herein, Whelchel was licensed as a principal broker with
16 The Prudential Seaboard Properties.

17 1.2 On February 23, 2010, OREA received a complaint from Kimbal Kidwell (Kidwell)
18 alleging: (1) that he had been told that he had to offer \$320,000.00 on a property listed for
19 \$305,000.00 because he wanted to use a Veterans Administration (VA) loan to finance the
20 purchase; (2) that a counter-offer was backdated; (3) that he could not receive all pages of the
21 seller's additional property disclosure until after he had signed accepting the additional
22 disclosure; (4) that he was not made aware that 4.5 acres of the 5.1 total acres was tidelands
23 and unusable until after he made his offer; (5) that the taxes were \$4,067.38 per year not
24 \$3,999.00 as advertised and were scheduled to go up; (6) that the property was in a flood zone
25 when he had been told it was on a bluff; (7) that Whelchel had looked into his finances without
26 permission; and (8) that he was pressured to withdraw his offer so that a higher offer that had
27 been received after his could be accepted.

28 1.3 On November 20, 2009, Mildred Johnson (Johnson) listed property she owned at
29 91165 Cape Arago Highway in Coos Bay, OR with Whelchel. Whelchel completed a Regional
30 Multiple Listing Service (RMLS) Residential Data Input Form at the time of listing. Whelchel

1 entered 5.1 acres as the lot size on the input form. The text that Whelchel entered into the
2 private comments field included the following language, "Most of land is in the bay..." The
3 public comments did not mention that a portion of the property was not usable.

4 **Violation:** By placing information that most of the subject property was in the bay in the
5 private RMLS comments instead of the public comments, Whelchel's advertising was
6 misleading in violation of OAR 863-015-0125(2)(b) and is subject to sanction pursuant to ORS
7 696.301(3).

8 1.4 Whelchel entered the tax information for the property on both RMLS and RWRE
9 as \$3,999.30. Whelchel missed a \$66.25 special tax assessment which would bring the total
10 taxes to \$4,065.55.

11 **Violation:** By entering a tax amount in both RMLS and RWRE that failed to include a
12 \$66.25 special assessment, Whelchel recklessly published materially misleading or untruthful
13 advertising in violation of ORS 696.301(4).

14 2.

15 2.1 OREA reserves the right to investigate and pursue additional complaints that
16 may be received in the future regarding this licensee.

17 2.2 In establishing the violations alleged above, OREA may rely on one or more
18 definitions contained in ORS 696.010.

19 STIPULATION & WAIVER

20 I have read and reviewed the above findings of fact and conclusions of law which have
21 been submitted to me by OREA and further, the order which follows hereafter. I understand
22 that the findings of fact, conclusions of law and this stipulation and waiver embody the full and
23 complete agreement and stipulation between OREA and myself. I further understand that if I
24 do not agree with this stipulation I have the right to request a hearing on this matter and to be
25 represented by legal counsel at such a hearing. Hearings are conducted in accordance with
26 the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and
27 Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily
28 waive my rights to a hearing, to representation by legal counsel at such a hearing, and to
29 judicial review of this matter.

30 ///

1 I hereby agree and stipulate to the above findings of fact and conclusions of law and
2 understand that the order which follows hereafter may be completed and signed by the Real
3 Estate Commissioner or may be rejected by the Real Estate Commissioner, in which case an
4 amended notice of intent may be issued in this matter. I understand that, in accordance with
5 the provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real
6 Estate News Journal.

7 ORDER

8 IT IS HEREBY ORDERED that Whelchel be, and hereby is, reprimanded.

9
10 IT IS SO STIPULATED:

IT IS SO ORDERED:

11
12
13 Vicki B. Whelchel

Gene Bentley

14 VICKI B. WHELCHEL

GENE BENTLEY

Real Estate Commissioner

15
16 Date July 20, 2010

Date 7.21.10

17
18 DATE of service: 7-22-10

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate Broker's
5 License of

6
7 BETTY D. WORD

STIPULATED ORDER OF REVOCATION

8 The Real Estate Agency (OREA) and Betty D. Word (Word) do hereby agree and
9 stipulate to the following:

10 1. Word's real estate broker's is scheduled to expire on January 31, 2012.

11 2. OREA has investigated Word regarding her licensed real estate broker activity
12 under file Nos. 200901-012 and 200906-389.

13 3. Word stipulates that OREA has substantial evidence in its files to support, after
14 hearing, findings of fact and conclusions of law by the Commissioner that would result in the
15 revocation of Word's real estate broker's license.

16 4. Based upon the evidence contained in those files, Word stipulates that she will
17 never qualify for and will never apply for a real estate broker's license in Oregon in the future.

18 5. Word understands that she has the right to request a hearing before the Real
19 Estate Commissioner on this matter and to be represented by legal counsel at such a hearing.
20 Word freely and voluntarily waives her rights to a hearing and judicial review of this matter and
21 to representation by legal counsel at such a hearing.

22 6. By entry of this order, Word's real estate broker's license is revoked, effective
23 July 1, 2010.

24 IT IS SO STIPULATED

IT IS SO ORDERED

25
26 Betty D. Word

Gene Bentley

27 BETTY D. WORD

GENE BENTLEY, Real Estate Commissioner

28 Date July 1, 2010

29 Date 7.12.10

30 DATE of service: 7-20-10