

# Oregon Real Estate News-Journal

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## CHANGING COMPANIES

*Scott W. Taylor, Real Estate Commissioner*

Anyone who has been around the real estate brokerage business for any length of time knows that it is not uncommon for licensees to change companies. Anyone who has been around the real estate business also knows that such a move may be complicated.

Generally, the big issues surround what happens with listings and pending sales. The key to avoiding problems is that the licensee leaving a company, the manager of that company, and the manager of the company where the licensee is going are all on the same page.

Should you change companies, the Real Estate Agency cannot tell you what happens with your existing listings and pending sales. This is not a license law question. However, if this is handled improperly and if this improper handling potentially puts a consumer in jeopardy, license law implications can come into play. Our expectation is that these matters be handled so that consumers' interests not get lost in the fray.

Listings are one consideration. Listings are taken in the name of the principal broker or the registered business name of the principal broker. Simply

put, the agreement is between the seller and the brokerage firm. The listing agent is acting on behalf of the listing firm as authorized by the principal broker and does not "own" the listing. Any brokerage fees generated as a result of the listing are payable to the company.

Most brokerage firms operate under some contract arrangement with their affiliated licensees. Some of these agreements address what happens to the listings obtained for the company by the associates. Some brokerage firms address this issue by office policy. Unfortunately, too many situations exist where the issue is not addressed at all. In my opinion, the latter is a formula for disaster. The Agency strongly recommends that brokerage firms develop either contract language or written policy that addresses clearly what happens to listings when an affiliated licensee leaves the firm, and if the principal broker allows an associate to take any listings to the new company, the specific procedures that must be followed. Brokerage firms cannot write policies and contracts that contravene real estate license law.

What is paramount is the old listing agreement must be released before the property can be listed with the new

company. An affiliated licensee who attempts to induce a seller to terminate a listing (working around the principal broker) likely has violated ORS 696.301(16). What should be obvious is the departing licensee and the principal broker must be working in concert to make the transition smooth.

Also, the principal broker of the firm where the licensee is moving to should also ensure these steps have been taken before accepting new listings that were

**CHANGING COMPANIES:** *continued on page 2*

### ASSOCIATE BROKERS

*(former salespersons):*

*The deadline to complete*

*the Associate Broker*

*Transition course is*

*approaching. Please see*

*important information*

*about your license on*

*page 3.*

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prior listings of the old firm. The principal broker should also verify the affiliated licensee is actually licensed with the firm before that licensee begins operating in the name of the firm. If the new principal broker allows the new affiliated licensee to operate on behalf of the firm before the associate is officially licensed to the firm, the principal broker is subject to license law violation sanctions as is the licensee. The Agency advises principal brokers not to assume, but call the Agency and verify the transfer has taken place, if they did not physically accomplish the task themselves.

Pending sales are another consideration. Again, these should be dealt with in either contract or office policy. Sales contracts are also the property of the brokerage firm in the sense that the brokerage fees are payable to the firm.

The company also has obligations to the parties to the transaction that must be fulfilled to achieve a closing. It is important that the departing licensee and the principal broker agree on compensation issues and how the pending sale is going to be handled. If the departing licensee is going to continue in some capacity to effect closing the sale, the new principal broker must be involved and in agreement as well.

**Principal brokers:** Please get these issues in writing, either in contract or policies. Be sure your affiliated licensees understand them.

**Affiliated licensee:** Please know and understand your company's policies or contract on these issues. Do not run out and have owners and parties to other contracts enter into new agreements until you have complied with company policy or contract. Do not begin engaging in professional real estate activity with another company before your license is officially transferred.

Principal brokers and affiliated lic-

ensee: When these situations occur, explain to the affected consumers what the policies are and what the transfer means to them.

The temptation is to think that no one is harmed when these situations occur; after all, it's just a technical matter. Consider this possibility: A licensee takes a listing on behalf of the new firm before the old listing has been terminated by the old principal broker. An offer comes in to the old office. The principal broker attempts to present it to the seller and the seller states they have transferred the listing to the new broker. Is there a problem?

Finally, what we are talking about here is simply good business. Contracts are at the heart of the real estate business, and must be honored by all parties. If licensees treat these events as business people, in a businesslike manner, conflicts should be reduced to a minimum. If a consumer gets caught in the crossfire, the Agency will be looking at the licensee's conduct in the matter.

## COMPUTER BASED TESTING ON THE HORIZON

The Real Estate Agency currently administers paper and pencil license exams to applicants once a month in three locations, and periodically in two additional locations. To streamline the exam process and improve service to applicants, the Agency will enter into a contract with examination services provider PSI to conduct computer-based examinations. Although the timetable is uncertain because outside agencies must approve the contract, the Agency plans to implement the change beginning in June 2005 when both paper and pencil exams and computer based exams will be offered, and convert completely to computer based exams in July.

According to the accepted PSI proposal, applicants will take the exam on a computer at test centers throughout the state (Portland, Wilsonville, Eugene, Medford, Bend, and Baker City). Hours of operation vary, but many of the centers will be open four days a week, including evenings and Saturdays.

The Agency will continue to process

and receive exam applications. When applicants are determined to be eligible for the exam, they will be notified by the Agency to contact PSI to schedule an exam.

The exam content will not change; PSI will use the Agency's existing questions. PSI will administer the exam and provide a score report to the applicant at the conclusion of the exam. The Agency will issue licenses to applicants when they complete all requirements (education, background check, examination, etc.). The Agency may work with PSI to update exam content in the future.

The Agency is enthusiastic about the upcoming changes to the exam process and looks forward to better serving applicants' needs. The Agency is working closely with staff, PSI, educators and others on implementing the changes, and will provide updates as they become available on the website at [www.rea.state.or.us](http://www.rea.state.or.us), to education providers, via the *OREN-J*, and through other methods of communication.

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OREGON REAL ESTATE AGENCY  
Theodore R. Kulongoski, Governor  
Scott W. Taylor, Commissioner

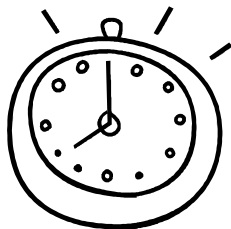
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Betty Reynolds, Editor

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## JUNE 30TH DEADLINE DRAWS NEAR FOR ASSOCIATE BROKER TRANSITION

If you were licensed as a salesperson in Oregon on June 30, 2002, your license was converted to a temporary associate broker license on July 1, 2002. To keep your license, whether it is active, inactive, suspended, or expired<sup>1</sup>, you must complete the Associate Broker Transition course (ABTC) by June 30, 2005. The ABTC is a specific 30-hour Agency-approved course, and is offered by course providers via different methods, including online, audio tape, and live lecture. A list of course providers can be found below.

Upon your completion of the ABTC, you must submit the original certificate (or certificates, if your course provider issues five certificates) and your license to the Real Estate Agency at 1177 Center Street NE, Salem OR 97301. No fee or form is required.

To determine if you are required to complete this course, or to establish if the Agency has received the required documentation, you can visit the Agency's website at [www.rea.state.or.us](http://www.rea.state.or.us). From the home page, select "Licensee Search" from the leftmost menu, then select "Individual Search." Enter your identifying information, followed by clicking on the "Start Search Now" button. Click on your license number, and look at the "License Profession" field. If the Agency shows record of receiving your certificate(s) and license, your license profession will be listed as "Broker." If the Agency has not received the required documents, your license profession will read "Temporary Associate Broker."

If the Agency does not receive your Associate Broker Transition Course certificate postmarked by June 30, 2005, your license will be canceled<sup>2</sup>.

*Note:* You do **not** need to take the broker licensing exam to make the transition from associate broker to broker. However, to become a sole practitioner or principal broker, an examination and additional educational requirements may apply.

If you have questions about license requirements, contact the Licensing Section at (503) 378-4170, selection 0. If you have questions about education or examination requirements, please contact the Education Section at (503) 378-4170, extension 251 or 260. See pages 5, 6, and 7 for more information on educational requirements.

<sup>1</sup>If on June 30, 2005, your license is expired, but has been expired for less than one year, the requirement still applies. Ordinarily, an expired license can be renewed up to one year from the date it expired, but if your license is canceled, you will lose the option of renewing it.

<sup>2</sup>If you fail to complete the required transition course within the time allowed, your license will be canceled. If your license is canceled, you must immediately stop conducting licensed real estate activity. To obtain a license again, you would need to complete all requirements for initial licensure before applying for a license. These requirements include pre-license education, the required license exam and a background check.

*Associate brokers must submit the following to the Agency by June 30, 2005:*

- *your original Associate Broker Transition Course certificate(s), and*
- *your original associate broker license (if active).*

### Approved Associate Broker Transition Courses

A+ Real Estate School, Portland, (503) 307-6621, Online

ABC School of Real Estate, Eugene, [www.equityrealty.com/abcschool.shtml](http://www.equityrealty.com/abcschool.shtml), (541) 302-2541, Online

Academy of Real Estate Learning, Milwaukie (503) 659-0200, Online

Advantage Real Estate School, Portland [www.homesnorthwest.com/ares](http://www.homesnorthwest.com/ares), (503) 256-9723, Live Lecture

All Professionals School of Real Estate, Beaverton, (503) 259-2100, Online

American College of Real Estate and Appraisal, Tigard, [www.acre4you.com](http://www.acre4you.com), (503) 968-9737, Live Lecture

Buckley LeChevallier LLC/Transnation Title, Course offering limited to select companies, Live Lecture

Center for Professional Studies, Seaside, (503) 738-9531, Online

Century 21 Clackamas Realty School, Clackamas (503) 698-7653, Online

Century 21 Harris & Taylor Real Estate School, Grants Pass, (541) 474-2014, Online

Century 21 J. C. Jones Realty School, Grants Pass, (541) 476-6502, Online

Century 21 Peninsula School of Real Estate, Portland (503) 286-5826, Online

Century 21 Real Estate School, Eugene, (541) 344-2400, Online

Coldwell Banker Mountain West Real Estate School, Salem, (503) 364-9596, Online

Eagle Cap Realty Pre-License School, La Grande, (541) 963-0511, Online

Eagle Vision Institute of Real Estate, Springfield, (541) 747-9971, Live Lecture

ERA Northwest School of Real Estate, Salem, (503) 364-0955, Online

John L. Scott, Salem, (503) 585-0100, Online  
onlineEd, [www.onlined.com](http://www.onlined.com), (503) 636-4580, Online or Live Lecture

Premier Training Group, Eugene, (541) 284-8900, Online and Independent Study at Home

Professional Trainers of Oregon, Roseburg, (541) 672-9200, Independent Study at Home or School

ProSchools, Portland, [www.proschools.com](http://www.proschools.com), (800) 452-4879, Online or Live Lecture

ProSchools, Salem, (503) 371-4471, Online  
Pro-Studies, Bend, [www.pro-studies.com](http://www.pro-studies.com), (541) 388-1021 or (888) 903-1021, Online

Prudential Northwest Properties Institute of Training, Tualatin, (503) 692-0250, Live Lecture

Prudential Seaboard Career School, Coos Bay, (541) 269-0355, Online

Quality Real Estate School, Bend, [www.qualityrealestateschool.com](http://www.qualityrealestateschool.com), (541) 389-9585, Independent Study at Home

Real Estate Institute of Greater Portland, Gresham, (503) 665-6780, Live Lecture

Real Estate Institute of Oregon, Eugene, [www.cbcr.com](http://www.cbcr.com), (541) 338-3298, Online

Tillamook County Real Estate School, Tillamook, (503) 842-7515, Online

Train Agents, Inc., [www.trainagents.com](http://www.trainagents.com), (866) 948 7246, Online

Warren's Real Estate School, Florence, (541) 997-1142, Live Lecture

Windermere Services Company, Portland, (503) 220-1145, Live Lecture

## REAL ESTATE LICENSEES USING TITLE AND/OR ESCROW COMPANIES AS MARKETING PARTNERS

Scott W. Taylor, Real Estate Commissioner

*(Editor's Note: The following article originally appeared in the June 2001 OREN-J. The Real Estate Agency has been made aware that many of the concerns expressed in it are ongoing. The rules remain unchanged and the article is valid today.)*

*Additionally, there have been at least two substantial monetary settlements with HUD by real estate firms since this article was printed as a result of charges of violations of the antikickback provisions of section 8(a) of RESPA.*

*We again caution licensees against becoming involved in practices such as those discussed below.*

The Real Estate Agency has been made aware of the growing trend of real estate licensees either requesting or demanding title and/or escrow companies to provide a number of services at no charge to the licensee in exchange for the licensee directing his or her escrow business to that particular company. This could be categorized as a *quid pro quo*, "You scratch my back and I'll scratch yours", or less politely, extortion.

These services include, but are not limited to the following:

1. Investment in a licensee's personal advertising. This may include monthly or quarterly stipends towards licensees' advertising budgets from "their" title or escrow company. The title or escrow company is not necessarily co-advertising with the licensee. It is subsidizing the licensee's costs.
2. Providing flyer and brochure boxes.
3. Creating and printing "just listed" and "just sold" postcards and other personal mailers and marketing

pieces for licensees, in some cases including postage and printing.

4. Staffing open houses, with or without supplying refreshments.
5. "Homebooks" created for either a buyer's agent or seller's agent.
6. Financial and technical support for licensees' personal websites, including technical support for maintenance of licensees' computer systems.

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*"While all of this sounds nice if one can obtain it, much of what is happening likely violates the law"*

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While all of this sounds nice if one can obtain it, much of what is happening likely violates the law.

The title insurance industry is also a regulated industry and title companies are subject to statutory provisions as well as rules and regulations. Much, if not all of the above appear to exceed the allowable cost of "things of value" or allowable "real property information" permitted by the rules and regulations affecting title companies if these items are provided without charge to a licensee.

I have seen some of the aforementioned "homebooks". In my opinion, they far exceed either the allowable number of documents or the allowable cost including materials and labor permitted by the rules and regulations.

Staffing an open house by an escrow or title company employee could easily cause that individual to become engaged in unlicensed real estate activity.

While any penalty would be issued against a title company or Escrow Company, or its employee, and not a real estate licensee, licensees should not labor under the misconception that they have no exposure for eliciting these services.

ORS 696 provides the ability for the Real Estate Agency to sanction a licensee involved in a transaction who has an undisclosed conflict of interest. Buyer's agents, seller's agents and in-company agents all have fiduciary obligations to their clients. Failure to disclose in writing that a licensee is receiving stipends, and/or goods and services from an escrow or title company in exchange for referring a client's business to that company could constitute a license law violation.

The Real Estate Settlement and Procedures Act (RESPA) also addresses this kind of activity. I had the opportunity to hear a Washington D.C. attorney speak to RESPA issues while attending the ARELLO meetings last April [2001] in Baltimore. This attorney, now in private practice, used to work for HUD. His practice includes regulatory and compliance matters involving HUD, including RESPA.

Much of his talk involved mortgage brokerage, computerized loan origination, web originated loans and the like.

However, I became particularly interested when he began talking about the antikickback provisions of Section 8(a) of RESPA. He specifically mentioned that many of the enumerated services when they are provided in consideration for referrals, by real estate licensees, of clientele to an escrow company for closing escrows involving federally related mort-

gage loans, probably violate Section 8(a) of RESPA. I had never thought about this before.

Generally the antikickback provisions of RESPA make it illegal for any person to give or receive a *thing of value* pursuant to an *agreement or understanding to refer settlement services* in connection with a *federally related mortgage loan*.

There are five elements to a violation. They are:

1. *thing of value*—virtually anything given in consideration for referral of settlement service business.
2. *agreement or understanding*—need not be written or articulated, but may be established by pattern, practice or conduct.
3. *referral*—is oral or written activity that has the effect of affirmatively influencing a person's selection of a particular settlement service provider.
4. *settlement service*—is any service provided in connection with a real estate settlement.
5. *federally related mortgage loan*—includes most purchase money mortgage loans.

Penalties for violating this section are severe and can include fines of up to \$10,000, imprisonment for up to one year, or both and treble damages. A complaint can be brought by HUD and by consumers. Obviously, notice of a RESPA violation could trigger an investigation by the Real Estate Agency.

Licensees who are involved in any of this should review the above and decide, along with competent counsel, whether they should discontinue the practice. One way to avoid some of the problems would be for the licensee to pay a fair price for the services actually performed or for the goods actually provided.

## **REMINDER TO PRINCIPAL BROKERS: BE AWARE OF EDUCATIONAL REQUIREMENTS FOR AFFILIATED LICENSEES**

Oregon's license laws were changed in 2001, and went into effect July 1, 2002. The primary changes included the elimination of the salesperson category of license and additional education requirements for both former salespersons and newly licensed brokers. Following is a reminder for principal brokers of their licensees' educational requirements. (Additional information on educational requirements can be found on pages 3, 6, and 7.)

### **FORMER SALESPERSONS**

If an affiliated licensee held a salesperson license on June 30, 2002, his or her real estate salesperson license was converted to a temporary associate broker license. He or she must complete an Agency-approved 30-hour Associate Broker Transition Course (ABTC) before June 30, 2005.

The licensee must then submit original certificate(s)<sup>1</sup> of attendance for the course and his or her original license. Individual licensees – not the course providers or principal brokers – are responsible for submitting the required documents.

Although the ABTC requirement is separate from continuing education requirements, a principal broker may also authorize an affiliated licensee to use the ABTC to meet continuing education requirements. If so, principal brokers should retain copies of the ABTC certificate in their files, making them available to Agency staff if requested.

All licensees with a license profession type of "Temporary Associate Broker" must complete the ABTC. If you are unsure whether this requirement applies to a specific licensee, or to confirm the Agency has received an affiliated licensee's ABTC certificate(s) and license, check the Agency's web-based Licensee Search at [www.rea.state.or.us](http://www.rea.state.or.us). If the Agency has already received a licensee's course certificates and license, the license profession will be

listed as 'Broker.' You may also confirm license type or obtain additional information by calling the Agency at (503) 378-4170, extension "0."

If a temporary associate broker fails to complete the required transition course within the time allowed, his or her license will be canceled. If an affiliated license is cancelled, the holder must immediately stop conducting licensed real estate activity. To obtain a license again, those with canceled licenses must complete all requirements for initial licensure before applying for a license. These requirements include pre-license education, the required license exam and a background check.

### **NEW LICENSEES AFTER JULY 1, 2002**

Affiliated brokers who received their first real estate license after July 1, 2002 must complete an Agency-approved 30-hour Advanced Real Estate Practices (AP) course prior to their first active license renewal.

At the time of license renewal, the licensee submits the AP course certificate to the principal broker. The principal broker signs the certificate and the license renewal notice certifying completion of the course. The principal broker maintains the original certificates in his or her files, making them available to Agency staff if requested. *Do not send Advanced Real Estate Practices certificates to the Agency.*

Although the AP course requirement is separate from continuing education requirements, a principal broker may authorize an affiliated licensee to use the AP course to meet the continuing education requirement.

<sup>1</sup>*Some Associate Broker Transition Course providers issue one certificate for the entire 30-hour course, and some issue five certificates for each six-hour segment completed. If the ABTC is completed from a course provider that issues five certificates, all certificates must be submitted to the Agency to receive credit for the class.*

## ADMINISTRATIVE RULE CHANGES: REAL ESTATE AND PROPERTY MANAGEMENT LICENSEES

The Real Estate Agency filed proposed revisions to administrative rules relating to real estate and property management licensees. The revisions will be effective May 6, 2005.

The proposed rule changes include three new rules: defining affiliated and subsidiary organizations (OAR 863-015-0062), requiring that a current mailing address be maintained at the Agency (OAR 863-015-0062), and allowing facsimile signatures on licensing documents. OAR 863-010-0061 and OAR 863-010-0640 and OAR 863-015-0015 through OAR 863-015-0080 were amended with such minor "housekeeping" changes as clarifying license status effective dates and fixing inconsistencies within those rules. The proposed rule revisions include a change to OAR 863-015-0125 (Advertising) to streamline that rule. OAR 863-015-0175 (Report of Litigation Involving Licensees) was amended to include other administrative and Oregon State Bar proceedings in the reporting requirements. OAR 863-015-0195 (Licensed Personal Assistants) was amended as provided by 2001's Senate Bill 446. OAR 863-015—215 (Disclosure Pamphlet) was amended to conform to statutory requirements. OAR 863-015-0260 (Records Retention) was amended changing the requirement of maintaining records at the broker's office from two years to six years. However, exception language is provided.

In addition, there are proposed changes to the Property Management administrative rules to eliminate redundant and unnecessary regulations and incorporate more business-friendly changes, in accordance with the Governor's directive to eliminate unnecessary regulation and to streamline the regulatory process. The Real Estate Commissioner consulted a property management task force consisting of persons representing the residential and commercial property management industry throughout the state to obtain public views that assisted the agency in drafting the proposed rules dealing with such issues as owner and tenant

agreements, property management client trust account requirements, and other financial record keeping requirements.

You can obtain more information about the proposed rules in several ways.

- The proposed rules will be published in the Secretary of State's (SOS) *Oregon Bulletin*, April 1, 2005 which is available either in paper format by calling (503) 373-0701 or through the SOS website at <http://arcweb.sos.state.or.us>, and clicking on "administrative rules" then "current bulletin."
- An edited copy of the rules showing the proposed new rule language may be viewed and downloaded at the Agency's website, after April 1, 2005 [www.rea.state.or.us/redline/](http://www.rea.state.or.us/redline/).
- An unedited copy of the final rules may be viewed and downloaded, after April 1, 2005 at [www.rea.state.or.us/final/](http://www.rea.state.or.us/final/).
- A hard copy of the text of the proposed rule changes may be obtained by calling 503-378-4170, ext. 239. In compliance with the Americans with Disabilities Act, the information is available in alternative formats upon request.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the *Oregon Bulletin* or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later.

Information and copies regarding the rules may be viewed and obtained as described above. Written comments regarding the proposed rules may be submitted until April 28, 2005 by regular mail, e-mail or facsimile. Contact information is:

Brian DeMarco,  
Administrative Rules Coordinator  
1177 Center NE  
Salem, OR 97301-2505  
facsimile: (503) 378-2491  
e-mail: [brian.a.demarco@state.or.us](mailto:brian.a.demarco@state.or.us)  
telephone: (503) 378-4170, ext. 237.

## EDUCATIONAL REQUIREMENTS FOR NEW LICENSEES

If you are an active affiliated broker who was originally licensed after July 1, 2002, you must:

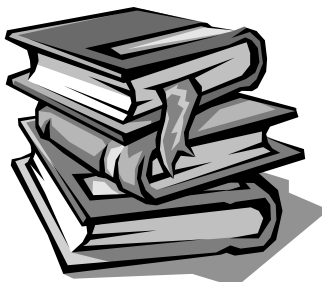
1. **Take the 30-hour Advanced Real Estate Practices course from an approved course provider.** [For a list of schools, see "Where to Find Hard-to-Find Classes" on page 7, visit our web site at [www.rea.state.or.us](http://www.rea.state.or.us) or call us at (503) 378-4170.] The course can be used to satisfy continuing education requirements with your principal broker's permission.
2. **Submit proof of completion of the Advanced Real Estate Practices course to your principal broker.** Your principal broker will then certify on your license renewal form that you have completed the course. Do not send proof of course completion to the Real Estate Agency.

**DEADLINE: First license renewal date.** Your first license is valid from the date of issue for one year and then onto the last day of the month of your birthday. **This means your first renewal date may be less than 13 months after obtaining your license.** For example, if your first license was issued in March 2004, and your birthday is in April, your license would renew April 30, 2005.

*NOTE: If you held any type of Oregon broker license prior to July 1, 2002, or you currently have a principal or sole practitioner broker license, you must meet the normal continuing education requirements at your license renewal. Visit [www.rea.state.or.us](http://www.rea.state.or.us) for information on continuing education requirements. If you have questions about license requirements, please contact the Licensing Section at (503) 378-4170, selection 2. If you have questions about education or examination requirements, please contact the Education Section at (503) 378-4170, extension 251 or 260.*

See additional information about educational requirements on pages 3, 5 and 7.

## WHERE TO FIND HARD-TO-FIND CLASSES



New courses are approved and added to the Agency's list of approved classes regularly. Check out the Agency's web site at [www.rea.state.or.us](http://www.rea.state.or.us) for the latest list of providers approved to offer pre-license, post-license, and transition courses. You may also receive the list by mail by calling the Agency at (503) 378-4170, selection 2.

The following is a list of approved course providers currently offering or scheduled to offer hard-to-find required courses:

### BROKERAGE ADMINISTRATION AND SALES SUPERVISION

American College of Real Estate, Tigard, live lecture, [www.acre4you.com](http://www.acre4you.com), (503) 968-9737

onlineEd, statewide, online or live lecture, [www.onlineed.com](http://www.onlineed.com) or (503) 636-4580

ProSchools, Portland, live lecture, [www.proschools.com](http://www.proschools.com) or (800) 452-4879

Quality Real Estate School, Bend, study at home or school, [www.qualityrealestateschool.com](http://www.qualityrealestateschool.com) or (541) 389-9585

Warren's Real Estate School, Florence, live lecture, (541) 997-1142

### REAL ESTATE PROPERTY MANAGER (PRE-LICENSE)

Lane Community College, Eugene, live lecture, (541) 463-5906

Portland Community College, Portland, online or live lecture, (503) 977-4393

ProSchools, Portland, live lecture, [www.proschools.com](http://www.proschools.com) or (800) 452-4879

Warren's Real Estate School, Florence, live lecture, (541) 997-1142

### ADVANCED REAL ESTATE PRACTICES

American College of Real Estate, Tigard, live lecture, [www.acre4you.com](http://www.acre4you.com), (503) 968-9737

Careers Real Estate School, Eugene, live lecture, (541) 302-4846

Coldwell Banker Mountain West Real Estate School, Salem, online (503) 364-9596

Eagle Vision Institute of Real Estate, Eugene, live lecture, (541-747-9971

onlineEd, statewide, online or live lecture, [www.onlineed.com](http://www.onlineed.com) or (503) 636-4580

ProSchools, Portland, online, study at home, or live lecture, [www.proschools.com](http://www.proschools.com) or (800) 452-4879

Oregon Association of Realtors® (OAR),\* live lecture, (503) 362-3645 or (800) 252-9115

Pro-Studies, Bend, online, [www.pro-studies.com](http://www.pro-studies.com), (541) 388-1021 or (888) 903-1021

Quality Real Estate School, Bend, study at home or school, [www.qualityrealestateschool.com](http://www.qualityrealestateschool.com) or (541) 389-9585

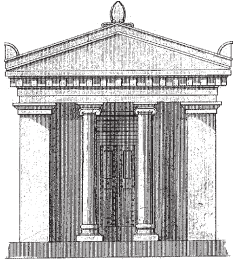
Real Estate Institute of Greater Portland, Gresham/Clackamas, live lecture or independent study at home, (503) 665-6780

Warren's Real Estate School, Florence, live lecture, (541) 997-1142

\* Please note: In April 2004, OAR incorporated an Advanced Real Estate Practices (AP) component as part of its Graduate Realtor Institute (GRI) series. The Agency reminds licensees that OAR's entire GRI series (100, 200 & 300), plus a specially designed property management class offered by OAR and onlineEd, must be completed to satisfy the entire AP requirement, and these classes may require up to 24 months to complete. Because most licensees' first renewal periods run less than two years, please be aware there may not be enough time to complete the AP course requirements via the GRI series. For more information on license renewal and AP course requirements, please see the Agency's brochure "Continuing Education Requirements", or call (503) 378-4170, extension 251 or 260.

# ADMINISTRATIVE ACTIONS

November 1, 2004 through January 31, 2005



*The Agency is required by Oregon Real Estate License Law to publish disciplinary actions. A list of those actions, a brief description of the situation, and the grounds for the Commissioner's action follows. Please note there are 60 days after the order date to file an appeal, and some of the orders listed may be within that appeal period. Please also note, there are individuals with real estate licenses that may have similar or the same names as those listed herein, or even work in the same market area. If you are in doubt if an individual listed here is someone you know or with whom you are dealing, please contact the Agency for verification.*

*Finally, please note that stipulated settlements do not necessarily reflect all the factual violations initially alleged by the Agency, and the sanction(s) may have been adjusted as part of the negotiation process. Such settlements may not, therefore, directly compare in severity/sanction with other cases.*

## SUSPENSIONS

Bost, Bonnie R. (Medford) Property Manager #881200062  
Stipulated order dated January 21, 2005 issuing a 90-day suspension effective March 1, 2005; collected and retained fees from tenants without the written authorization to do so, OAR 863-10-210(1) and OAR 863-025-0020(2)(c); failed to maintain a sufficient credit balance on three owner ledgers at all times, OAR 863-10-220(3)(a)(d) and OAR 863-025-0025(3)(a)(e); disbursed funds for repairs in excess of the amount allowed in two management agreements without proper written authorization to do so, ORS 696.301(28); removed management fees without complete and adequate instructions in the property management agreement, OAR 863-10-210(1) and OAR 863-025-0020(2)(a); accepted security deposits at a time other than at the commencement of the rental agreement without a promissory note

or other agreement to pay the deposit from tenants, ORS 696.301(28); failed to take timely actions to remove tenants who failed to pay rents when due in accordance with instructions contained in the property management agreements, ORS 696.301(28); failed to take proper action against a tenant for her failure to pay rents for three months by issuing non-payment notices and further failed to take timely and appropriate legal action to remove her from the rental unit, OAR 863-025-0015(1)(a)(d); failed to procure copies of materials lists for invoices from outside vendors billed to an owner, OAR 863-025-0015(1)(c); contacted exclusively with Bost Full Rental Repair & Construction, a company owned by her sons, for repairs and maintenance on a managed property rather than receiving bids from multiple vendors and contracting with the appropriate one, OAR 863-025-0015(1)(a)(d); and failed to complete a number of clients' trust account reconciliations that either did not balance or failed to contain required documents, OAR 863-10-220(6) and OAR 863-025-0025(5)(6).

Crowe, Scott A. (Portland) Broker #971000058  
Default order dated November 29, 2004 issuing a 30-day suspension; Crowe was licensed as a principal broker doing business under the registered business name of Ten Bridge Real Estate LLC. Crowe entered information into the multiple listing service (RMLS) indicating that a property located in Tigard, OR was listed with Ten Bridge. Ten Bridge did not have a listing on the property. Crowe advertised the Tigard property through the RMLS for sale without the written authorization of the owner demonstrating negligence incompetence or untrustworthiness in performing any act for which the

licensee is required to hold a license in violation of ORS 696.301 (28).

Noel, Felicia (Portland) Broker #890400072  
Stipulated order dated January 20, 2005 issuing a 60-day suspension effective January 20, 2005; failed to disclose to her clients (sellers) that she was involved in a business partnership with the buyer and contemplated becoming involved in the subject property for profit, ORS 696.805(3)(d); submitted advertising she knew was false regarding the kitchen, ORS 696.301(1); advertised the subject property for a higher price and without the knowledge and consent of the owners, ORS 696.301(17); failed to provide her principal broker with advertising before using it, OAR 863-015-0125(4)(e); and acted as a general contractor during the renovation of two properties without first obtaining a license to do so, ORS 696.301(28).

Perez, Xochi Maria R. (Beaverton) Broker #200008030  
Stipulated order dated January 11, 2006 issuing a 60-day suspension effective January 24, 2005; prepared promissory notes in five transactions that did not state to whom the notes were payable, OAR 863-015-0135(5); failed to ensure that the promissory notes were redeemed as set out in the agreement and failed to advise the buyers that if the promissory notes were not redeemed that the sellers could void the transactions, ORS 696.810(3)(a)(b); and allowed a buyer to make repairs before qualifying for a mortgage, ORS 696.810(3)(a).

Phillips, Deborah M. (Gresham) Property Manager #200010043  
Stipulated order dated December 9, 2004 issuing a 2-year suspension ef-

fective December 27, 2004, with a limited license after the suspension; provided owners with statements that do not contain accurate information, ORS 696.301(1); failed to give a monthly report to the owners that showed all receipts and disbursements for the account of the owner, OAR 863-025-0055(4); failed to retain all paid bills and receipts explaining the amount of and purpose for the receipt or disbursement of the owner funds, OAR 863-025-0055(5); provided owners with inaccurate owner statements and statement invoices, ORS 696.301(6); failed to produce records required to be maintained when requested by the Agency, ORS 696.301(11); failed to maintain spreadsheets for all units, owner ledgers, tenant ledgers or security deposit tenant ledgers, ORS 696.301(12); failed to prepare and reconcile all property management clients' trust accounts, OAR 863-025-0025(5); contracted for work to be performed on properties when she did not have owner funds available to pay for the work, OAR 863-025-0015(1); issued checks that differ from the amounts shown on the owner reports, charged the owner for other administration costs, which are unknown costs and not permitted in the property management agreement, charged management fees against security and pet deposits, failed to adequately explain to the owner about charges assessed against their funds, signed an agreement with another that was designed to forego her responsibilities as a property manager, and retained an override for work she contracted to be performed, ORS 696.301(28); obtained funds from an owner that were intended for payment to a vendor and then failed to pay the funds to the vendor, and failed to pay for maintenance and repair work she contracted for, ORS 696.301(31); wrote a check on her clients' trust account and deposited it into her operating account for the insurance funds received on a property,

ORS 696.301(20); failed to pay a vendor for work she contracted to have done, deducted funds for carpet disposal and appliance and toilet resets from an owner's final account balance when the owner had already paid those charges, ORS 696.301(4); and periodically overdrafted an owner ledger, OAR 863-025-0025(3)(f).

Sullivan, B. Michael (Portland) Broker #910200182  
Default order dated November 29, 2004 issuing a 6-month suspension effective December 13, 2004 and \$4,500 civil penalty; presented himself as being licensed with a brokerage when he was not, ORS 696.301(1); procured prospects calculated to result in the sale of real estate and assisted clients in preparation of real estate documents when his license was inactive, ORS 696.226(2); and continued to conduct professional real estate activity after his license expired, OAR 863-015-0050(2).

### REPRIMANDS

Abbott, Diana L. (Newport) Principal Broker #800604237  
Stipulated order dated November 15, 2004; failed to follow up with the buyer's agent to ensure that the second installment of the earnest money had been redeemed and that the seller's disclosure had been receipted and accepted by the buyer, ORS 696.805(2)(a), and failed to ensure that her broker file contained complete, legible copies of all the documents of agreement for the transaction including the modified real estate agreement, Addendum A with signature of both parties, and the Professional Inspection Addendum with signatures, OAR 863-015-0250(1).

Bost, Ronald E. (Medford) Property Manager #870800070  
Stipulated order dated January 21, 2005; failed to maintain a sufficient credit balance on three owner ledgers

at all times, OAR 863-10-220(3)(a)(d) and OAR 863-025-0025(3)(a)(e); disbursed funds for repairs in excess of the amount allowed in two management agreements without proper written authorization to do so, OAR 696.301(28); failed to complete a number of clients' trust account reconciliations that either did not balance or failed to contain required documents, OAR 863-10-220(6) and OAR 863-025-0025(5)(6); and engaged in professional real estate activity after his license expired and continued to do so while he was unlicensed until his license was reissued, OAR 863-015-0050.

Itel, Mary Lou (Tigard) Broker #800904202  
Stipulated order dated November 10, 2004; failed to obtain the owners' written authorization prior to allowing repairs to be made, ORS 696.301(28).

Kimball, Cynthia S. (Redmond) Principal Broker #880400138  
Stipulated order dated January 27, 2005; failed to disclose that the owner was a real estate licensee and failed to include the name of the real estate brokerage in three advertisements, OAR 863-10-046; advised a buyer that Kimball had permission to take a listing with her to her new company so that the buyer would sign a new offer on Kimball's property, ORS 696.301(16); and advised her designated broker that her accountant advised her not to sell when that was not the case, ORS 696.301(31) (1999 Edition).

Lampman, Douglas J. (Idaho) Reciprocal Principal Broker #200012027  
Default Order dated November 15, 2004; failed to notify the Agency of the suspension of his Idaho real estate license until contacted by the Agency, OAR 863-015-0175.

**ADMINISTRATIVE ACTIONS:** *continued on page 10*

**ADMINISTRATIVE ACTIONS:** *continued from page 9*

Leach, Loren L. (Lincoln City) Broker #980300081  
 Stipulated order dated November 8, 2004; failed to obtain a Disclosed Limited Agency Agreement for Buyers from the buyer indicating he was acting as agent for both seller and buyer, ORS 696.845; and turned property keys over to the buyer before the seller had vacated the property and without the seller's knowledge and consent, ORS 696.301(28).

Messick, Ronald G. (Lincoln City) Temporary Associate Broker #200203185  
 Stipulated order dated November 22, 2004; sent an email to approximately 1,800 people with some misinformation about a listed property, ORS 696.301(1); Messick's internet home page advertisement does not contain the name or telephone number of his principal real estate broker's company or firm, OAR 863-015-0125(3)(4)(b); Messick's internet home page advertisement fails to identify Messick as a real estate licensee and his designation as a broker, OAR 863-015-0125(5)(a); Messick placed the agency disclosure pamphlet under a tab on his website for buyer information rather than making it disclosed and available on the home page, ORS 696.301(28).

Powers, Karin D. (Crooked River) Temporary Associate Broker #970500198  
 Stipulated order dated December 2, 2004; failed to disclose the revocable license and encroachment on the subject property to the potential buyer, ORS 696.301(28); and failed to obtain the seller's signature on an addendum until two weeks after the transaction closed, ORS 696.301(28).

Villanti, Judy Gina Ann (St. Helens) Temporary Associate Broker #780501823  
 Stipulated order dated December 17, 2004; wrote an offer that was \$30,000 over the listed price to facilitate the buyer getting a more advantageous loan, without the knowledge and consent of the lender, ORS 696.301(28); and failed to obtain an initial agency acknowledgement at or before the first substantive contact with the buyers and sellers, ORS 696.820 (1999 Editions).

Ingersoll, Mark W. (Beaverton) Broker #960500074  
 Stipulated order dated November 2, 2004 issuing a \$1,100 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-15-0050(2).

Montani, Stephen G. (Portland) Temporary Associate Broker #780401899  
 Stipulated order dated November 10, 2004 issuing a \$200 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-15-0050(2).

Nayne, Nick A. (Bend) Temporary Associate Broker #200109046  
 Stipulated order dated December 2, 2004 issuing a \$4,600 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-15-0050(2).

**CIVIL PENALTIES**  
 Hammers, Dale A. (Grants Pass) Broker #199910171  
 Stipulated order dated December 2, 2004 issuing a \$300 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-15-0050(2).

Whiting, James P. II, (Salem) Broker #900800121  
 Stipulated order dated November 4, 2004 issuing a \$3,100 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-15-0050(2).

**IMPORTANT 2005 DATES**

- Tuesday, April 5, 2005 ..... April License Examination Application Deadline
- Saturday, April 23, 2005 ..... April License Examination
- Monday, May 2, 2005 ..... Real Estate Board meeting
- Thursday, May 5, 2005 ..... May License Examination Application Deadline
- Saturday, May 21, 2005 ..... May License Examination
- Monday, May 30, 2005 ..... Memorial Day, State Offices closed
- Monday, June 6, 2005 ..... June License Examination Application Deadline
- Saturday, June 18, 2005 ..... June License Examination
- Monday, June 27, 2005 ..... Real Estate Board meeting
- Thursday, June 30, 2005 ..... Deadline to submit proof of completion of Associate Broker Transition Course (see page 3)
- Monday, July 4, 2005 ..... Independence Day, State Offices closed
- Monday, August 29, 2005 ..... Real Estate Board meeting



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