

Oregon Real Estate News-Journal

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Commissioner
Gene Bentley

Sharing Commissions, Paying Finders' Fees

Gene Bentley, Real Estate Commissioner

As an Oregon real estate licensee, there are times when you want to share part of the commission you receive for professional real estate activity. But be aware! If you share, or offer to share, with someone you are not allowed to share with by law (Oregon Revised Statute 696.290), it could result in an administrative action against your license.

Residential Transactions

A broker or principal broker may share commission with, or pay a referral fee to, the following:

- An Oregon principal broker who was actively licensed at the time the payment was earned.
- An Oregon broker who was actively licensed at the time the payment was earned, as long as payment is made through the broker's principal broker.

Note: If a broker leaves a real estate company, the principal broker of that

company can pay the broker directly for any professional real estate activity done while the broker was associated with the principal broker.

- Someone actively licensed in another state, as long as:
 - The other state allows its licensees to cooperate with Oregon licensees.
 - The out-of-state licensee does not conduct professional real estate activity in Oregon.

Commercial Transactions

A broker or principal broker in a nonresidential real estate transaction may share commission with, or pay a referral fee to, the following:

- An Oregon principal broker who was actively licensed at the time the payment was earned.
- An Oregon broker who was actively licensed at the time the payment was earned, as long as payment is made

*Please see **Sharing Commissions** on page 3*



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Views from the Board

Long-Term Investment

David J. "Dave" Koch, Oregon Real Estate Board Member



Dave Koch

We hear a lot of lip-service given to the concept of long-term investments, especially in financial markets. But forces are at work that tend to diminish that reality. In financial markets, automated computerized trading pushes priorities to "right now" instantaneous responses. It's hard to make long-term decisions in that kind of environment.

In our real estate world we can fall for this "right now" mentality as well. It's easy. We are all computerized, cellphone and texting capable, and social media accessible. In short, we are fully, electronically

"weaponized." I think that we should be careful that we not become so efficient with our electronic tools that the people and personal relationships get lost in the process.

If we are thinking of a real estate career being long-term, that is, to be a real "career," the relationship side of our business is important. Here are some thoughts about that.

Appreciate the People

Problems do arise in real estate transactions. When they do, it's far better for the client to feel comfortable contacting you first to see if there is a solution. Often the "problem" stems from a simple misunderstanding. They are likely to contact you only if a trust relationship has been developed.

Business Practices

We can improve our professionalism and build the confidence of our clients and customers if we have a consistent set of

business practices: a checklist of things we do EVERY time. I've heard a lot of good ideas for doing this over the years. One of the best is, prior to asking the person to enter into a contract or sign a disclosure, to give them blank copies of relevant documents and a highlighter. Ask them to review the contract and associated forms, highlight anything not understood, and then review those items with them.

Good Ethics

The Realtor® community has a well-defined and explained code of ethics. Even if you don't subscribe to that code, a committed "Golden Rule" mentality will get you a long way in ethical behaviors. We've all seen the media's stereotypical scheming crook of a real estate agent. It's not pretty. We have to work at overcoming that image. Success strategy: Good Ethics!

Laws and Rules

This is the realm of the Oregon Real Estate Agency. When you think about it, the laws and rules enforced by the Real Estate Agency establish the minimum standards for obtaining and keeping a real estate license. Building a long-term career in real estate will require a greater commitment to good, ethical practice than simply staying legal.

A career in real estate can be fun, rewarding, and personally satisfying. We meet new people every day and, if we do it right, often they become new friends. A commitment to a long-term career is worth the effort. Go forth and prosper! ■

In our real estate world we can fall for this "right now" mentality as well.

"Views from the Board" features the opinions of Real Estate Board members. The views expressed are not necessarily those of the *Oregon Real Estate News-Journal*, the Oregon Real Estate Agency or Agency staff.

Sharing Commissions

Continued from page 1

through the broker's principal broker.
Note: If a broker leaves a real estate company, the principal broker of that company can pay the broker directly for any professional real estate activity done while the broker was associated with the principal broker.

- Someone actively licensed in another state, as long as:
 - The other state allows its licensees to cooperate with Oregon licensees.
 - The out-of-state licensee does not conduct professional real estate activity in Oregon.
- Someone actively licensed in another state, as long as the out-of-state licensee and the cooperating Oregon licensee agree in writing that all professional real estate activity in this state will:
 - Be subject to the supervision of the Oregon licensee.
 - Comply with all applicable Oregon laws.
 - The cooperating Oregon licensee accompanies the out-of-state licensee and the client for all property showings and negotiations in Oregon.
 - All property showings and negotiations are supervised and under the control of the cooperating Oregon licensee.

Property Management

A broker, principal broker or property manager engaged in the management of rental real estate may issue a finder's fee, referral fee, or a rent credit to the following:

- An Oregon property manager or principal broker who was actively licensed at the time the payment was earned.
- An Oregon broker who was actively licensed at the time the payment was earned, as long as payment is made through the broker's principal broker.
Note: If a broker leaves a real estate company, the principal broker of that company can pay the broker directly for any professional real estate activity done while the broker was associated with the principal broker.

- A nonlicensed individual who is:
 - An existing tenant in the building or facility the licensee is managing under a current property management agreement.
 - A former tenant who resided in the building or facility within the previous six months.

People with Whom You Cannot Share Compensation

You cannot split your commission or compensation with:

- Anyone who does not have a real estate license, including:
 - Buyers and sellers in real estate transactions.
 - People who are exempt from being licensed under ORS 696.030, **including attorneys.**
- Property managers, for referrals in real estate sales transactions.

FAQs about Compensation

Q: Can I set up a corporation through which to receive my commission payments?

A: Yes, a broker or principal broker can set up a business organization such as a corporation, LLC, or partnership for the purposes of receiving commissions. ORS 696.026

Q: Can I pay a broker who has left my company for a transaction she worked on while she was with my company?

A: Yes, you may directly pay a broker for work she did while she was associated with you. ORS 696.290(4)

Q: I know an out-of-state licensee who wants to refer a client to me. Can I pay a referral fee to him?

A: Yes, as long as the other state allows its licensees to cooperate with licensees in Oregon and the out-of-state licensee does not conduct professional real estate activity in Oregon. ORS 696.290(1)(b)

Agency Staff Changes

Peter Bale retired August 12 after five years with the Oregon Real Estate Agency. Highlights of his time with the Agency include earning his Senior Certified Real Estate Investigator designation, assisting in the development of a clients' trust account reconciliation video (coming soon), and being named ARELLO's Investigator of the Year for 2015. In retirement, Mr. Bale plans to stay busy as a consultant and trainer in the real estate and property management fields. He also intends to explore the Pacific Northwest with his wife, Nyla, and work towards the goal of making the English team in his age division for the 2018 Field Hockey World Cup.

Janae Beaver was hired in June as the Regulations Administrative Specialist. She comes to the Agency from Nebraska, where she held a broker license and worked for a property management company. Before that she worked for the state of Nebraska's Public Service Commission. Ms. Beaver has an associate's degree in business management.

Madeline Alvarado was promoted to the

newly created Customer Service Manager position in May. She directly supervises licensing staff, oversees certification of continuing education providers, administers the continuing education audit program, and acts as liaison with the exam services vendor. Ms. Alvarado previously held the position of Program Analyst. She has been with the Agency since June 2009

Anna Higley was promoted to Business and Technology Manager in March, a position created from the Business and Licensing Manager position that was vacated last year. She is responsible for preparing the budget, managing and coordinating projects, supervising the Customer Service Manager, overseeing accounting and information technology staff, and managing the eLicense database system. Ms. Higley started at the Agency in 2008 in a temporary capacity, but was hired permanently as the Efficiency Specialist in 2010.

The Agency congratulates Ms. Higley and Ms. Alvarado, welcomes Ms. Beaver, and wishes Mr. Bale well. ■

Oregon Real Estate Board Meeting in Tigard

Monday, October 3, 2016, 10:00 a.m.

**Oregon State Bar Conference Center
16037 SW Upper Boones Ferry Rd.**

EARN 3 HOURS OF CONTINUING EDUCATION if you pre-register with the Oregon Association of Realtors (OAR). *The Board meeting is open to the public, but you must pre-register with [OAR](#) to receive continuing education hours.*

New Reconciliation Form Available

The newest version of the [Trust Account Reconciliation Form](#) is now available on the Oregon Real Estate Agency's website. The Agency changed the form to better reflect Oregon Administrative Rules and to allow for online completion.

The form is required for Agency clients' trust account audits. It is recommended for the [required monthly reconciliation](#) of all clients' trust accounts.



By Don McCullough from Santa Rosa, CA, USA (Drone and Moon) [CC BY 2.0 (<http://creativecommons.org/licenses/by/2.0/>)], via Wikimedia Commons

Using Drones in Real Estate

If you think that aerial photos and videos will add that extra something to your real estate marketing toolbox, you are not alone.

The use of unmanned aircraft systems, commonly known as drones, are increasing in popularity in the real estate community. Drones are more available and less expensive than ever.

The Federal Aviation Administration's (FAA) updated regulations, effective August 29, will make the commercial use of drones even easier.

Things to consider

If you decide to use a drone, either by buying and flying your own or hiring someone to fly one on your behalf, you need to know the

legal requirements and the risks associated with its use.

- Who can fly the drone?
- What are the registration requirements?
- Where and how can it be flown?
- What are my liabilities?

More Information

[Fly Unmanned Aircraft Systems: Get Started](http://www.faa.gov/uas/getting_started/) (http://www.faa.gov/uas/getting_started/)
– FAA

["Drones: Assessing the Risks"](http://realtormag.realtor.org/law-and-ethics/law/article/2016/01/drones-assessing-risks) (<http://realtormag.realtor.org/law-and-ethics/law/article/2016/01/drones-assessing-risks>)
– Realtor Magazine Online ■

Administrative Actions

March 10, 2016 through June 30, 2016

The Oregon Real Estate Agency is required by law to publish disciplinary actions. The final order for each action can be viewed by clicking on the individual names listed below.

Please note that there are individuals with real estate licenses that may have similar or the same names as those listed below, even in the same market area. If you

are in doubt if an individual listed here is someone you know or with whom you are working, please contact the Agency for verification.

Stipulated settlements do not necessarily reflect all the factual violations initially alleged by the Agency. Sanctions may have been adjusted as part of the negotiation process. Such settlements may not, therefore, directly compare in severity/sanction with other cases.



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The Oregon Real Estate News-Journal is published by the Oregon Real Estate Agency as an educational service to all real estate licensees in the state under the provisions of Section 696.445 of the Oregon Revised Statutes.

Mesheal Heyman, Editor

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SUSPENSIONS

[Shivers, Nickolas](#) (Tualatin) Principal Broker 200209063. Stipulated final order dated April 18, 2016 issuing a 60-day suspension starting on December 1, 2016.

REPRIMANDS

[King, Gordon L.](#) (Salem) Principal Broker 921100135. Stipulated final order dated June 13, 2016.

[Moody, Linda J.](#) (Oakridge) Principal Broker 950100188. Stipulated final order dated June 14, 2016.

[Moore, Brayden Michael](#) (Corvallis) Property Manager 201205545. Stipulated final order dated June 14, 2016.

CIVIL PENALTIES

Expired - Late Renewals

Civil penalties for late renewals are computed using each 30-day period as a single offense. The civil penalty for the first period can range from \$100 - \$500, with each subsequent 30-day period ranging from \$500 - \$1000.

[England-Beringer, Shannon](#) (Bend) Broker 201209648. Stipulated final order dated June 14, 2016 issuing a \$100 civil penalty.

[Reece, Joshua T.](#) (Veneta) Property Manager 201208572. Stipulated final order dated June 23, 2016 issuing a \$1,600 civil penalty.

Unlicensed Activity

[O'Neal, Debra Lynn](#) (Oakridge) Property Manager 201110063. Default order dated June 30, 2016 issuing a \$28,500 civil penalty. ■