

1 REAL ESTATE AGENCY  
2 BEFORE THE REAL ESTATE COMMISSIONER  
3

4 In the Matter of the Real Estate License of )

5  
6 SANDRA ELAINE BITTLER )

STIPULATED FINAL ORDER

7  
8  
9  
10 The Oregon Real Estate Agency (OREA) and Sandra Bittler (Bittler) do hereby agree  
11 and stipulate to the following:

12 FINDINGS OF FACT

13 &

14 CONCLUSIONS OF LAW

15 1.

16 1.1 Bittler was licensed as a principal broker with Oregon First from April 26, 2011  
17 until September 2, 2014.

18 1.2 On September 1, 2014, OREA received an email from Arthur Donaghey  
19 (Donaghey). Based on a newspaper article regarding the transaction, Donaghey requested  
20 OREA investigate Bittler's 2013 purchase of her neighbor's property.

21 1.3 On September 3, 2014, OREA received a hand delivered envelope from Oregon  
22 First. The envelope contained a copy of an email to Bittler dated August 31, 2014, from Ken  
23 Mistler (Mistler), President and Principal Broker for Oregon First. Mistler alleged Bittler had  
24 violated licensing administrative rules.

25 1.4 Bittler and her husband, Michael Leland (Leland), moved into their neighborhood  
26 about seven years ago. At that time, they told their neighbor, Elmo Marquette (E. Marquette)  
27 to let them know if he ever wanted to sell the 2.02 acre parcel (subject property) that abutted  
28 both the Marquettes' property and Leland and Bittler's property.

29 ///

30 ///

1           1.5    Bittler told OREA investigator Rob Pierce (Pierce) that she and her husband saw  
2 E. Marquette around the neighborhood and spoke with him many times over the next seven  
3 years. Bittler said the subject property was not discussed with E. Marquette again until E.  
4 Marquette rang Bittler's doorbell in November 2013 and said he was ready to sell the subject  
5 property.

6           1.6    Bittler said it was E. Marquette that set the asking price at \$22,000.00. Bittler  
7 said she had only done residential homes transactions and was not well versed in bare land  
8 transactions, but she thought the price seemed a little low.

9           1.7    On November 4, 2013, at 11:05 am, Bittler sent an email to Heidi Gamelgaard  
10 (Gamelgaard), Sr. Escrow Officer for Fidelity National Title, asking her to send her any  
11 information she had on the subject property, specifically asking Gamelgaard if the subject  
12 property was a buildable lot and if there was anything attached to the subject property or the  
13 title that would be conveyed in a sale. Bittler also asked Gamelgaard if she could use a simple  
14 Earnest Money Agreement to buy the subject property and follow the normal transaction route  
15 using Gamelgaard as the escrow office, even though there was no structure on the property.

16           1.8    On November 4, 2013, at 12:36 pm, Melissa Scott, Customer Service  
17 Representative for Fidelity National Title responded to Bittler's email. Scott told Bittler the  
18 subject property was zoned R10 with a P&C overlay. The email was copied to Gamelgaard.

19           1.9    On November 4, 2013, at 2:55 pm, Bittler sent an email to Gamelgaard,  
20 explaining to Gamelgaard, from what she was able to find online, that the P&C overlay was  
21 environmentally protected land area that would make developing the subject property very  
22 difficult. In her email, Bittler said she thought the subject property was not really all that  
23 valuable, considering the fact the subject property was landlocked, combined with the zoning  
24 restrictions. In her email, in regards to the subject property, Bittler said, "it would be awesome  
25 to clear it and extend our back yard if it really was only for \$20k."

26           1.10 A review of a City of Portland zoning map confirms the subject property is zoned  
27 R10 with a P&C overlay covering approximately half of the 2.02 acre parcel. According to the  
28 City of Portland Ordinance 33.430.15, development would only be approved in the  
29 environmental protection zone only in rare and unusual circumstances.

30 ///

1           1.11 On the zoning map, SW 59<sup>th</sup> Avenue appears to extend to the subject property  
2 providing access to the land. However, a review of google maps and google maps street view  
3 for the Marquettes' home located at 5857 SW Garden Home Road shows the street listed as  
4 SW 59<sup>th</sup> Avenue is actually a gravel driveway that ends at the Marquette house and does not  
5 extend the entire distance of the easement back to the subject property.

6           1.12 On November 12, 2013, Bittler and Leland wrote an offer to purchase the subject  
7 property from E. Marquette and his wife Mellitta Marquette (the Marquettes) for \$22,000.00.

8           1.13 On page one of the offer, in the section for final agency acknowledgement, Bittler  
9 did not fill in the name of the selling licensee or the name of the registered business name she  
10 worked under. Also, Bittler failed to check the box indicating she was representing the buyer  
11 only.

12           1.14 On page three of the offer, Bittler disclosed she was a real estate broker, but did  
13 not contain any language stating she was representing herself as the buyer in the transaction.

14           **Violation:** By failing to fill out the final agency acknowledgement on page one of the  
15 sale agreement and failing to state she was representing herself as the buyer in the  
16 transaction, Bittler violated ORS 696.301(3) (2013 Edition) as it incorporates OAR 863-015-  
17 0145(1) (4-1-2013 Edition), which states if a licensee, whether active or inactive, either directly  
18 or indirectly offers or negotiates for the sale, exchange, lease option, or purchase of real estate  
19 and the licensee is a principal to the transaction, the licensee must disclose to the other party  
20 to the offer or transaction that the licensee is a real estate licensee. The licensee must make  
21 the disclosure in any advertising or display signs, and it must appear in writing on at least the  
22 first written document of agreement concerning the offer or transaction. The disclosure set  
23 forth on the agreement document also must state that the real estate licensee is representing  
24 himself or herself as either the buyer or seller in the transaction.

25           1.15 Bittler said she advised E. Marquette more than once to get representation, but  
26 he did not want to be represented. Bittler said E. Marquette wanted to keep the transaction  
27 simple and would have sold the property on a handshake deal if he could. Bittler said E.  
28 Marquette asked her to draw up the documents so they could close the transaction. Bittler  
29 said she walked the Marquettes through the contract, explaining all of it, including the selling  
30 price that had been agreed upon.

1           1.16 On November 13, 2013, the Marquettes accepted the offer.

2           1.17 On November 18, 2013, signing was scheduled for the subject property. The  
3 signing was to happen at the Marquettes' home and Gamelgaard asked Bittler to meet her at  
4 the Marquettes house for the signing. Gamelgaard said she always uses a buddy system  
5 when doing an outside closing and in this case thought Bittler would be the logical choice,  
6 since Bittler was friends with the Marquettes, lived around the corner from the Marquettes, and  
7 was also one of the buyers of the property.

8           1.18 Bittler said when she arrived at the Marquettes' home prior to Gamelgaard, on  
9 November 18, 2013, Meliitta Marquette said they weren't getting enough for the property.

10          1.19 Bittler said when Gamelgaard arrived, she immediately told Gamelgaard the deal  
11 was off because Meliitta had changed her mind.

12          1.20 Galmegaard told Pierce that when she got to the Marquettes' house she was told  
13 right away by Bittler there was a problem. Gamelgaard said Meliitta Marquette was not happy  
14 with the price they were getting and thought they should be getting more. Gamelgaard gave  
15 the Marquettes the folder with the escrow documents and left without attempting to get the  
16 closing documents signed.

17          1.21. Gamelgaard said Bittler walked out with her and apologized for Gamelgaard  
18 having to come out for nothing.

19          1.22 The next day, on November 19, 2013, Bittler said E. Marquette called and told  
20 Bittler they were ready to move forward with the transaction. E. Marquette said he had  
21 discussed it with his wife and they decided it would be best to go ahead and sell the property  
22 to Bittler at the agreed upon price, rather than spending more time trying to get a higher price.

23          1.23 On November 21, 2013, Gamelgaard returned for the second time for the signing  
24 of the closing documents. Bittler said Gamelgaard explained each and every document in  
25 detail to the Marquettes. Bittler said Gamelgaard was specific about the price being  
26 \$22,000.00, mentioning the price in several documents and both Marquettes seemed to be in  
27 agreement regarding the price.

28          1.24 Bittler said there was no hesitation by Meliitta Marquette regarding the price at  
29 the second signing, and Bittler was confident that the Marquettes completely understood the  
30 transaction, including the price they were selling the subject property for.

1           1.25 Gamelgaard said she explained each document to the Marquettes in detail  
2 before she had them sign, to make sure they understood what they were signing.

3           1.26 Gamelgaard said she explained the preliminary title report to the Marquettes.  
4 The preliminary title report had been mailed to the Marquettes on November 15, 2013, so they  
5 had a couple days to look it over prior to signing the closing documents. Gamelgaard said the  
6 preliminary title report clearly showed the selling price to be \$22,000.00. Gamelgaard said she  
7 did not remember if she specifically said \$22,000.00 or if she just pointed out the amount.

8           1.27 Gamelgaard said she explained the Sale Escrow Instructions to the Marquettes,  
9 which showed that a title insurance policy was to be obtained in the amount of \$22,000.00.

10           1.28 Gamelgaard said she explained the Seller's Estimated Settlement Statement to  
11 the Marquettes. The Seller's Estimated Settlement Statement clearly showed the selling price  
12 of the property to be \$22,000.00, and the total amount to be deposited to the Marquettes' Key  
13 Bank account, including prorations to be \$23,581.74.

14           1.29 A Substitute Form 1099-S was prepared for the sale of the property that showed  
15 the proceeds of the sale to be \$22,000.00. Galemgaard said she explained this form to the  
16 Marquettes and they signed it on November 21, 2013.

17           1.30 A Statutory Warranty deed was prepared, transferring title to the property from  
18 the Marquettes to Leland and Bittler for true and actual consideration in the amount of  
19 \$22,000.00. Gamelgaard said she explained the Warranty Deed to the Marquettes and they  
20 signed it on November 21, 2013. Gamelgaard was confident that by walking the Marquettes  
21 through all the closing documents and the explanations she had given them, the Marquettes  
22 understood the transaction.

23           1.31 Regarding possible future development on the subject property, Bittler said there  
24 was a verbal agreement to not develop the subject property as long as the Marquettes lived  
25 there. Bittler said it was not part of the written contract because of the friendly nature of the  
26 transaction and because she did not know how the agreement might affect the deed if it was in  
27 writing.

28 ///

29 ///

30 ///

1           **Violation:** By making a verbal agreement not to develop the subject property and failing  
2 to include it in the written sale agreement Bittler violated ORS 696.301(3) (2013 Edition) as it  
3 incorporates OAR 863-015-0135(5) (4-1-2013 Edition), which states real estate licensees must  
4 include all of the terms and conditions of the real estate transaction in the offer to purchase or,  
5 directly or by reference, in the counter-offer, including but not limited to whether the transaction  
6 will be accomplished by way of deed or land sales contract, and whether and at what time  
7 evidence of title will be furnished to the prospective buyer.

8           1.32 Bittler failed to turn her transaction with the Marquettes in to Oregon First, the  
9 registered business name she worked under. She said the reason she did not turn it in to  
10 Oregon First was because she didn't think she was required to. Bittler said because she is a  
11 principal broker herself, she did not think state law required her to submit her personal  
12 transactions for another broker's approval. Bittler said this was the first and only transaction  
13 that she had ever done that did not involve Oregon First.

14           **Violation:** By failing to turn the transaction documents in to Oregon First, Bittler  
15 violated ORS 696.301(3) (2013 Edition) as it incorporates OAR 863-015-0260(1)(a) (4-1-2013  
16 Edition), which requires that transactions involving a licensee as a principal to the transaction  
17 must be processed in the same manner as the licensee's other professional real estate  
18 activities and comply with the records requirements under OAR 863-015-0250. Additionally,  
19 Bittler violated ORS 696.301(3) (2013 Edition) as it incorporates OAR 863-015-0260(1)(a),  
20 which states that records of professional real estate activity may be stored at the principal  
21 broker's main office, and records of professional real estate activity originating at a branch  
22 office may be maintained and stored at either that branch office or at the principal broker's  
23 main office.

24           1.33 Bittler said she and Leland first learned of the Marquettes' displeasure with the  
25 purchase price of the subject property after being contacted by a reporter for a story that ran  
26 August 30, 2014.

27           1.34 On September 5, 2014, attorneys for Bittler, Leland and the Marquettes  
28 announced a settlement. According to the terms of the settlement, the subject property was  
29 returned to the Marquettes by Bittler and Leland with no restrictions regarding future  
30 development. The Marquettes were allowed to keep the \$22,000.00 that Bittler and Leland had

1 paid them for the subject property.

2 1.35 On September 30, 2014, Pierce attempted to interview the Marquettes regarding  
3 the transaction with Bittler and Leland. Meliitta Marquette said the disagreement with Bittler  
4 and Leland had been resolved to her satisfaction and she and E. Marquette would not discuss  
5 the matter any further.

6 2.

7 2.1 OREA reserves the right to investigate and pursue additional complaints that  
8 may be received in the future regarding this licensee.

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 me. I further understand that if I do  
14 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 ///

27 ///

28 ///

29 ///

30 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

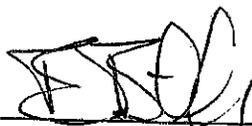
ORDER

IT IS HEREBY ORDERED that Bittler's principal broker license be, and hereby is, reprimanded.

IT IS SO STIPULATED:

IT IS SO ORDERED:

Sandra Elaine Bittler



SANDRA ELAINE BITTLER

GENE BENTLEY

Real Estate Commissioner

Date 2-2-15

Date 2-17-15

DATE of service: 2-18-2015