

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License

5 of

6
7 MELISSA MARIE CLEMO
8

ORDER ON DEFAULT

9 1.

10 1.1 On February 20, 2015, the Real Estate Commissioner issued, by certified mail, a
11 notice of intent to reprimand the real estate property manager license of Melissa Marie Clemo
12 (Cleomo) and levy civil penalty. The Oregon Real Estate Agency (OREA) sent the notice of
13 intent to Clemo's last known address of record with the OREA. The notice of intent was also
14 mailed to Clemo by regular first class mail in a handwritten envelope.

15 1.2 The certified mailing of the notice of intent and the first class mailing were sent to
16 Clemo at 974 NE Francis Ct, Bend, OR 97701. No mailings have been returned to OREA. No
17 return receipt was received by OREA for the certified mailing.

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 designated as the record for purposes
21 of default, including any submission from respondent and all information in the administrative
22 file relating to the mailing of notices and 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 3.7 On September 3, 2013, Lindsey Nunes, a compliance specialist with OREA,
2 wrote to Clemo advising her that her license was inactive due to it not being attached to her
3 company. On September 5, 2013, Clemo contacted OREA and had her license associated
4 with Accounted for Homes, LLC.

5 3.8 Cleomo stated in an email to OREA on February 3, 2014, "In regards to my
6 license. In [sic] found out in September of 2012 that my license didn't get renewed. I spoke
7 with my assistant at the time and she wasn't sure what happened. I contact [sic] the RE office
8 and thought we got it all straightened out and then found out via email last fall that something
9 didn't happen in the end but it was straightened out that time and reactivated. I never meant to
10 work without an active license."

11 **Violation:** By conducting professional real estate activity over the course of 131 days
12 after Clemo's license expired and before renewing it (time period between June 1, 2012-
13 October 9, 2012), Clemo violated ORS 696.020(2) (2011 Edition), which states, an individual
14 may not engage in, carry on, advertise or purport to engage in or carry on professional real
15 estate activity, or act in the capacity of a real estate licensee, within this state unless the
16 individual holds an active license as provided for in this chapter. The above violation is subject
17 to discipline or civil penalty pursuant to ORS 696.990(4) and (9) (2011 Edition).

18 3.9 Cleomo maintained a separate Clients' Trust Account (CTA) for each owner.
19 Clemo did not maintain a CTA for tenants' security deposits. Clemo said that the majority of
20 the tenants' security deposits were held by the property owner, but a few were held by her.
21 The ones that were held by Clemo went into the owner's CTA.

22 3.10 The property management agreement between Accounted for Homes, LLC and
23 Kevin Tucker and Lara Mathews, owners of the subject property, contained the following
24 paragraph:

25 "3. In accordance with OAR 863-10-0131, [sic] all conditionally refundable deposits
26 collected from tenants by Agent shall be deposited into a non-interest bearing client trust
27 account. All funds deposited into said account shall be maintained in said account until
28 disposition by the Agent as required by "Landlord and Tenant Law" and as described in OAR
29 863-010-220(5)." [sic]

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1 **Violation:** By failing to open and maintain a security deposit clients' trust account,
2 Clemo violated ORS 696.301(3) (2011 and 2013 Editions) as it incorporates OAR 863-025-
3 0025(4) (9-14-2012 and 4-1-2013 Editions), which states except as provided in section (7) of
4 this rule, a property manager who receives security deposits on behalf of an owner must open
5 and maintain a security deposits account, as defined in OAR 863-025-0010, that is separate
6 from the property manager's clients' trust account.

7 **Violation:** By holding tenants' security deposits in the owner's clients' trust account,
8 instead of a security deposits clients' trust account, Clemo violated ORS 696.301(3) (2011 and
9 2013 Editions) as it incorporates OAR 863-025-0025(5) (9-14-2012 and 4-1-2013 Editions)
10 which states, except as provided in section (7) of this rule and OAR 863-025-0030, a property
11 manager who receives a security deposit on behalf of an owner must deposit the security
12 deposit into the property manager's security deposits account within five days after receipt.

13 3.11 In her interview, Clemo said she co-owned Accounted for Homes, LLC with her
14 husband, Mark Clemo (M. Clemo).

15 3.12 Clemo said that she and M.Clemo used employees of Accounted for Homes,
16 LLC for cleaning and maintenance. Clemo said the property management agreements did not
17 reflect this policy. In the copy of the property management agreement provided by Clemo,
18 there was no reference made to charging owners for work done by employees of Accounted
19 for Homes, LLC.

20 **Violation:** By using Accounted for Homes, LLC's employees for the cleaning and
21 maintenance of owners' properties and failing to disclose this in the property management
22 agreements, Clemo violated ORS 696.301(3) as it incorporates OAR 863-025-0020(2)(i) (9-1-
23 2011 Edition), which states, a property management agreement must include: disclosure of the
24 use of employees or a business in which the property manager has a pecuniary interest at the
25 time of execution of the property management agreement, that will provide services for the
26 owner's property.

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1 **Violation:** By failing to include a statement in the property management agreements
2 concerning written disclosure to property owners regarding any planned use of employees or
3 business or a business in which Clemo had a pecuniary interest, Clemo violated ORS
4 696.301(3) (2011 Edition) as it incorporates OAR 863-025-0020(2)(j) (9-1-2011 Edition), which
5 states a property management agreement must include a statement that the property manager
6 will disclose to the owner, in writing, the property manager's planned use of any employees or
7 a business in which the property manager has a pecuniary interest to provide services for the
8 owner's property, if such employees or business were not disclosed in the property
9 management agreement.

10 3.13 A review of the OREA licensing system on February 5, 2014, showed no CTA's
11 recorded for Accounted for Homes, LLC.

12 **Violation:** By failing to notify OREA of the CTAs, Clemo violated ORS 696.301(3) as it
13 incorporates ORS 696.241 (2011 Edition) which states, within 10 business days after the date
14 a clients' trust account is opened, a licensed property manager shall file with the Real Estate
15 Agency, on forms approved by the agency, the following information about the clients' trust
16 account: (a) the name of the bank, (b) the account number, (c) the name of the account, (d)
17 the date the account was opened; and (e) a statement by the property manager authorizing the
18 Real Estate Commissioner or commissioner's representative to examine the clients' trust
19 account at such times as the commissioner may direct."

20 3.14 A settlement letter was sent to Clemo regarding the above violations. On
21 September 10, 2014, Clemo called OREA and accepted the settlement offer.

22 3.15 On November 18, 2014, stipulated orders were mailed out to Clemo for her
23 signatures. Clemo failed to return the stipulated orders to OREA. Several attempts by OREA
24 were made to contact Clemo regarding the stipulated orders. As of the date of this order,
25 Clemo failed to return the stipulated orders signed to the OREA.

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ORDER

IT IS HEREBY ORDERED that Melissa Marie Clemo's property manager license be, and hereby is reprimanded.

IT IS FURTHER ORDERED, pursuant to ORS 696.990 and based upon the violation set forth above, Clemo pay a civil penalty in the sum of \$3,500, said penalty to be paid to the General Fund of the State Treasury by paying the same to OREA. The dates of unlicensed activity were from June 1, 2012 through October, 9 2012, for a total 131 days. Each month of unlicensed activity is considered a violation. In this instance there were four months of unlicensed activity.

Dated this 7th day of APRIL, 2015.

OREGON REAL ESTATE AGENCY



GENE BENTLEY

Real Estate Commissioner

DATE of service: 4-7-2015

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.