# OREGON REAL ESTATE AGENCY BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of

CHARLES L. BROUGHTON

STIPULATED FINAL ORDER

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The Real Estate Agency (OREA) and Charles L. Broughton (Broughton) do hereby agree and stipulate to the following:

#### FINDINGS OF FACT

#### AND

#### CONCLUSIONS OF LAW

1.

- 1.1 At all times mentioned herein, Broughton was licensed as a real estate broker with Baker City Realty, Inc.
- 1.2 On May 23, 2011, OREA received a complaint from Dan Brassard (Brassard) alleging that Broughton had: a) violated signed escrow instructions and withdrew \$55,418 from a holdback account 45 days after he signed documents which stated that all disbursements from the holdback account would be at the written permission of the lenders, b) sold a portion of Tax Lot 2000, Baker City, Oregon via a Quitclaim Deed to Homer and Karen Talbert (Talberts) knowing there were two liens against the property and a clear title could not be obtained, and c) signed an easement granting Baker City, Oregon an easement on Tax Lot 2000, knowing there were two liens against the property and a clear title could not be obtained. The subsequent investigation found the following violations.
- 1.3 Broughton failed to disclose in writing to the Talberts that he was a real estate licensee at the outset of their purchase of a portion of land at 1290 'D' Street, Baker City, Oregon (subject property).

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**Violation:** OAR 863-015-0145(1) (2008 Edition), which states that a real estate licensee may not conduct professional real estate activity on their own behalf without disclosing in writing on at least the first written document of agreement to the other party to the transaction that the individual is a real estate licensee.

1.4 Broughton failed to disclose to his principal broker at Rustic Realty of his participation as a principal in the sale transaction to the Talberts of the subject property.

**Violation:** OAR 863-015-0145(3) (2008 Edition), which states that any transaction conducted on a real estate broker's own behalf must be conducted under the supervision of and all documents and funds transmitted through the licensee's principal broker.

1.5 Broughton failed to disclose to the Talberts at the outset of the sale to them of the subject property that there were two previous liens against the property and that the property had gone into foreclosure.

**Violations:** ORS 696.301(12) and (14) (2007 Edition), which states that a real estate licensee may be disciplined if they demonstrate incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license, and/or, if they commit an act of fraud or engage in dishonest conduct substantially related to the fitness of the licensee to conduct professional real estate activity.

1.6 Broughton failed to provide the Talberts, in a timely manner, a Quit Claim Deed to the subject property they purchased from him.

**Violation:** ORS 696.301(14) (2007 Edition), which states that a real estate licensee may be disciplined if they commit an act of fraud or engage in dishonest conduct substantially related to the fitness of the licensee to conduct professional real estate activity.

1.7 Broughton failed to obtain written authorization to sell any portion of the subject property from the members of O&R, LLC, who owned the subject property.

**Violation:** ORS 696.301(14) (2007 Edition), which states that a real estate licensee may be disciplined if they commit an act of fraud or engage in dishonest conduct substantially related to the fitness of the licensee to conduct professional real estate activity.

1.8 Broughton failed to disclose to Brassard that he had sold portions of the subject property to the Talberts and to the City of Baker City, when Brassard purchased the Warranty Deed from O&R, LLC.

**Violation:** ORS 696.301(14) (2007 Edition), which states that a real estate licensee may be disciplined if they commit an act of fraud or engage in dishonest conduct substantially related to the fitness of the licensee to conduct professional real estate activity.

2.

- 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301. Based on these violations, a suspension of Broughton's real estate license is appropriate for violations of ORS 696.301(12) and (14), as defined above.
- 2.2 A suspension is appropriate under ORS 696.396(2)(c)(A), (B) and (C), which states that a suspension may be imposed if the material facts establish that there has been significant damage or injury, the licensee has exhibited incompetence in the performance of professional real estate activity and/or the licensee exhibits dishonest or fraudulent conduct.

### STIPULATION & WAIVER

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

I hereby agree and stipulate to the above findings of fact and conclusions of law and understand that the order which follows hereafter may be completed and signed by the Real Estate Commissioner or may be rejected by the Real Estate Commissioner, in which case an amended notice of intent may be issued in this matter.

## ORDER

IT IS HEREBY ORDERED that Broughton's real estate license be suspended for a period of 30 days, beginning January 1, 2013.

IT IS FURTHER ORDERED that at the conclusion of Broughton's suspension, and upon written request, Broughton be issued a real estate broker's license with limitations as set forth below:

- (a) The limited license period shall be until all of the following conditions have been met;
  - (b) Broughton shall not violate any license law or rule during the limited license term;
- (c) Broughton shall be required to give a copy of this Order to any principal broker through whom he is licensed during the limited license term, prior to licensing, and the principal broker shall acknowledge receiving a copy of this Order in writing to the OREA;
  - (d) Broughton continues to pay \$200 each month to the Talberts until paid in full;
  - (e) Broughton continues to pay \$50 each month to Brassard until paid in full;
- (f) The employing principal broker shall immediately notify the OREA of any criminal convictions or license law violations by Broughton during the limited license term, and
- (g) The restrictions shall continue until Broughton (1) requests an unrestricted license, in writing, and (2) Broughton's principal broker endorses Broughton for an unrestricted license. OREA will conduct an inquiry on Broughton including, but not limited to, a check through the Law Enforcement Data System. If OREA finds that there is no reason to continue the limited license, an unrestricted license will be issued.

IT IS FURTHER ORDERED that, should Broughton violate any term or condition of this Order, an additional 11 month suspension will be imposed, and will be effective immediately.

IT IS SO STIPULATED:

IT IS SO ORDERED:

CHARLES L. BROUGHTON

Date 12-11-12

**GENE BENTLEY** 

Real Estate Commissioner

Date 12.19.12

DATE of service: 12-19-12