

1 OREGON REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of)
5 HANK ELLIOTT) ORDER ON DEFAULT
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9 1.

10 1.1 On November 5, 2012, the Real Estate Commissioner issued, by certified mail, a
11 notice of intent to reprimand the real estate property manager's license of Hank Elliott (Elliott).
12 The Real Estate Agency (OREA) sent the notice of intent to Elliott's last known address of
13 record with the OREA. The notice of intent was also mailed to Elliott by regular first class mail
14 in a handwritten envelope.

15 1.2 The certified mailing was signed for and received by Pam Massey on November
16 7, 2012, and the regular first class mailing has not been returned to OREA.

17 1.3 Over twenty (20) days have elapsed since the mailing of the notice issued in this
18 matter and no written request for hearing has been received.

19 1.4 Copies of the entire investigation file are designated as the record for purposes
20 of default, including any submission from respondent and all information in the administrative
21 file relating to the mailing of notices and any responses received.

22 2.

23 Based upon the foregoing and upon a review of the above described investigation
24 reports, documents and files, the Real Estate Commissioner finds:

25 2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is
26 properly served when deposited in the United States mail, registered or certified mail,
27 addressed to the real estate licensee or to any other person having an interest in a proceeding
28 before the Commissioner at the licensee's or other person's last known address of record with
29 OREA.
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1 2.2 Elliott's last known address of record with OREA was PO Box 1653, Redmond,
2 Oregon, 97756.

3 2.3 A certified mailing of the notice of intent was mailed to Elliott at his last known
4 address of record on November 5, 2012.

5 2.4 The mailing in the handwritten envelope has not been returned to OREA. In
6 accordance with ORS 40.135(1)(q), there is a presumption that the mailing properly addressed
7 and placed with the U.S. Postal Service was delivered. That presumption has not been
8 overcome by any evidence.

9 2.5 Over twenty (20) days have elapsed since the mailing of the notice and no
10 written request for a hearing has been received.

11 FINDINGS OF FACT
12 AND
13 CONCLUSIONS OF LAW

14 3.

15 3.1 At all times mentioned herein, Elliott was licensed as a property manager doing
16 business under the registered business name of Juniper Property Management, Inc.

17 3.2 On November 19, 2010, OREA received a complaint from Rachel Birge (R.
18 Birge) and Laurence "Corky" Birge (L. Birge) against Erika Morris (Morris) and Laura Hayden
19 (Hayden), alleging that they had failed to protect their property, located at 5904 SW Badger,
20 Terrebonne, OR 97760 (Badger property). The subsequent investigation found the following
21 violations by Elliott.

22 3.3 Elliott entered into a property management agreement for the Badger property
23 between his property management company, Juniper Property Management, Inc. (JPM) and
24 R. Birge on February 2, 2010. The property was owned by L. Birge, not R. Birge.

25 3.4 Elliott entered into a property management for the Badger property with R. Birge,
26 who was not on title as an owner of the property.

27 **Violation:** OAR 863-025-0020(1) (2009 Edition), which states that a property manager
28 must not engage in the management of rental real estate without a written, unexpired property
29 management agreement between the owner and the property manager.

1 3.5 Elliott failed to include the following five (5) items in the Badger property
2 management agreement.

3 **Violations:** OAR 863-025-0020(2)(f), (h), (j), (k), and (l) (2009 Edition), which requires
4 that property management agreements include: approval to offer a tenant rent concessions,
5 the disposition of the property manager's records of the management of the owner's rental real
6 estate after termination of the agreement, a disclosure to the owner of any use of employees
7 or businesses in which the property manager has a pecuniary interest to perform work on the
8 property, an identifying code, and the signature of the owner.

9 3.6 Elliott failed to ensure that the beginning and ending dates were included on the
10 *Fixed Term Lease Agreement* between Elliott and tenants C. Brown and C. Ohngren for the
11 Badger property.

12 **Violation:** OAR 863-025-0045(1)(b) (2009 Edition), which states that all rental or lease
13 agreements must contain the rental or lease term.


14 3.7 In February and March of 2010, Hayden and Morris, owners of Morris Hayden
15 Property Management, LLC (MHPM), came to an agreement with JPM to take over
16 management of 72 properties that JPM was currently managing. The Badger property was
17 one of the 72 properties.

18 ORDER

19 IT IS HEREBY ORDERED that Elliott's license be, and hereby is, reprimanded.

20
21 Dated this 4th day of December, 2012

22
23 OREGON REAL ESTATE AGENCY

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26 GENE BENTLEY

27 Real Estate Commissioner
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29
30 DATE of service: 12-4-12

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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.