

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of)
5)
6 SAMUEL FUNG) ORDER ON DEFAULT
7)
8)

9 1.

10 1.1 On May 18, 2012, the Real Estate Commissioner issued, by certified mail, a
11 notice of intent to revoke the real estate principal broker license of Samuel Fung (Fung). The
12 Real Estate Agency (OREA) sent the notice of intent to Fung's last known address of record
13 with the OREA. The notice of intent was also mailed to Fung by regular first class mail in a
14 handwritten envelope. Neither one has been returned to OREA.

15 1.2 Over twenty (20) days have elapsed since the mailing of the notice issued in this
16 matter and no written request for hearing has been received.

17 1.3 Copies of the entire investigation file are designated as the record for purposes
18 of default, including any submission from respondent and all information in the administrative
19 file relating to the mailing of notices and any responses received.

20 2.

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

23 2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is
24 properly served when deposited in the United States mail, registered or certified mail,
25 addressed to the real estate licensee at the licensee's last known address of record.

26 2.2 Fung's last known address of record with OREA was 2834 Yvonne Road,
27 Medford, Oregon.

28 2.3 A certified mailing of the notice of intent was mailed to Fung at his last known
29 address of record on May 18, 2012. It has not been returned to OREA.

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1 3.5 On July 31, 2008, a Second Superseding Indictment was filed in the U.S. District
2 Court California Northern District as to Samuel S. Fung and Eric Aaron Lighter (Lighter). This
3 Indictment charged Fung with one count of Conspiracy to Defraud the United States, one
4 count of Conspiracy to Commit Wire Fraud, eight counts of Wire Fraud; Aiding and Abetting,
5 one count of Conspiracy to Blackmail and Witness Tampering, three counts of Witness
6 Tampering; Aiding and Abetting, three counts of Blackmail; Aiding and Abetting, and 70 counts
7 of Aiding and Assisting in preparation of False and Fraudulent Tax Returns.

8 3.6 On March 11, 2009, a Third Superseding Indictment was filed in the U.S. District
9 Court California Northern District as to Samuel S. Fung. This Indictment charged Fung with
10 one count of Conspiracy to Defraud the United States, 22 counts of Aiding and Assisting in
11 Preparation of False and Fraudulent Tax Returns, one count of Conspiracy to Commit Wire
12 Fraud, eight counts of Wire Fraud; Aiding and Abetting, one count of Conspiracy to Commit
13 Blackmail and Witness Tampering, three counts of Witness Tampering; Aiding and Abetting
14 and three counts of Blackmail; Aiding and Abetting.

15 3.7 On September 14, 2011, a Plea Agreement was filed in the U.S. District Court
16 California Northern District as to Samuel S. Fung. A Change of Plea Hearing as to Fung was
17 held before Judge Hon. Edward J. Davila on September 14, 2011. At this hearing, Fung
18 entered a plea of guilty to one count of Conspiracy to Defraud the United States.

19 3.8 According to the transcript from the Change of Plea Hearing, the lead
20 Prosecuting Attorney, Charles A. O'Reilly (O'Reilly) stated the Government would prove that
21 Fung and others conspired to defraud the United States by deceitful and dishonest means by
22 impeding, impairing and destructing the lawful government functions of the Internal Revenue
23 Service (IRS) in the ascertainment, computation, assessment and collection of federal income
24 taxes. O'Reilly stated the Government would prove that Fung conspired to commit wire fraud
25 and in furtherance of these conspiracies, Fung and others performed overt acts identified in
26 the Third Superseding Indictment. O'Reilly stated Fung and others individually, jointly, for
27 themselves and on behalf of others, established fictitious business names through which they
28 and others would receive income and held assets in order to defraud the United States of
29 America by attempting to conceal theirs and others assets and income from the IRS and to
30 illegally eliminate theirs and others income taxes and income tax liabilities. O'Reilly stated

1 Fung and others prepared and caused to be prepared false and fraudulent federal income tax
2 returns to be presented to the IRS for tax payers and entities identified in the Third
3 Superseding Indictment. O'Reilly referred to charts in the Plea Agreement that specified
4 names of clients and entities that Fung had prepared tax returns for and the dates the tax
5 returns were prepared and stated that he believed that Fung would stipulate that those charts
6 accurately represent the false returns that were prepared by Fung as indicated in the Plea
7 Agreement.

8 3.9 The Court asked Fung if he had heard the Government's statement about what
9 they would prove if the case were to go to trial. Fung answered yes. The court asked Fung if
10 he specifically noted the facts listed in the Plea Agreement as part of those facts that the
11 Government would prove. Fung answered yes. The Court asked Fung if those facts were true.
12 Fung again answered yes.

13 3.10 O'Reilly said the Government would prove that in telephone calls on or about
14 March 2, 3, and 10, 2006, in consultation and agreement with Lighter, Fung knowingly
15 attempted to intimidate and threaten and corruptly persuade Dr. Irwin Gootnick (Dr. Gootnick)
16 with the intent to prevent or influence Dr. Gootnick's testimony in an official proceeding in that
17 Fung threatened Dr. Gootnick would go to jail for tax evasion if Dr. Gootnick testified for the
18 Government in the criminal trial against Fung. O'Reilly said in these conversations Fung also
19 attempted to persuade Dr. Gootnick to dismiss his civil lawsuit then pending against Lighter.
20 O'Reilly said that was at least part of what the Government would prove.

21 3.11 The Court asked Fung if he heard O'Reilly's recitation of the evidence that the
22 Government would prove at trial. Fung answered yes. The Court asked Fung if those facts, all
23 of them, were true and correct. Fung answered yes.

24 3.12 The Court asked Fung what his plea was to count one of the Third Superseding
25 Indictment which alleges that it's a violation of 18 U.S.C. Section 371 that beginning on or
26 before August 2, 1997, and continuing up to and through March 31, 2006, within the Northern
27 District of California and elsewhere, he and others unlawfully, knowingly and intentionally
28 conspired and agreed to defraud the United States by deceitful and dishonest means by
29 impeding, impairing, and obstructing the lawful government functions of the Internal Revenue
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1 Service of the Department of the Treasury of the United States of America in the assessment
2 and collection of federal income taxes. Fung's response was "I plead guilty your honor".

3 3.13 On September 14, 2011, the Court accepted the plea and found that Fung had
4 knowingly and voluntarily waived his constitutional rights for entry of a plea and for a jury trial.
5 In the signed plea agreement, Fung said that he "provided false and fraudulent advice to
6 clients that the programs we promoted were legal."

7 3.14 On June 2, 2012, Fung was sentenced to 27 months in prison and ordered to pay
8 \$1.7 million in restitution.

9 3.15 In addition, Fung failed to report to OREA an adverse judgment against him
10 dated July 23, 2007 in the amount of \$78,500 in favor of the Cecilia McKenzie Family Trust.

11 CONCLUSIONS OF LAW

12 4.

13 4.1 ORS 696.301(11) and (14) (2011 Edition), which states that the real estate
14 license of any real estate licensee may be disciplined if they have been convicted of a felony or
15 misdemeanor substantially related to the licensee's trustworthiness or competence to engage
16 in professional real estate activity and/or if they have committed an act of fraud or engaged in
17 dishonest conduct substantially related to the fitness of the licensee to conduct professional
18 real estate activity without regard to whether the act or conduct occurred in the course of
19 professional real estate activity. (4 violations of ORS 696.301(14))

20 4.2 OAR 863-015-0175 (April 13, 2007 Edition), which requires that a real estate
21 licensee notify OREA of any adverse decision, judgment or award resulting from any suit or
22 action, civil or criminal, in which the licensee was named as a party, which reflect adversely on
23 the trustworthy and competent requirements of ORS 696 and OAR chapter 863.

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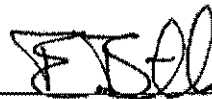
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ORDER

IT IS HEREBY ORDERED that Fung's real estate principal broker license is revoked.

Dated this 8th day of June, 2012.

OREGON REAL ESTATE AGENCY



GENE BENTLEY
Real Estate Commissioner

DATE of service: 6/8/12

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.