1 2 3 In the Matter of the Real Estate Broker's 4 5 License of 6 7 **GEORGE RALSTON** 8 9 10 11 stipulate to the following: 12 13 14 1.1 15 16 1.2 17 18 1.3 19 20 1.4 21 22 23 note did not contain any payee. 24 1.5 25 26 27 1.6 28 29 111

REAL ESTATE AGENCY BEFORE THE REAL ESTATE COMMISSIONER

STIPULATED FINAL ORDER

ODOT DALOTON

The Real Estate Agency (OREA) and George Ralston (Ralston) do hereby agree and stipulate to the following:

FINDINGS OF FACT

1.

- 1.1 At all times mentioned herein, Ralston was licensed as a real estate broker with Cascade Sotheby's International Realty.
- 1.2 On August 9, 2011, OREA received a complaint from Robin Herd (Herd) against Scott Ralston (Ralston) at Cascade Sotheby's International Realty.
- 1.3 The Herds had a listing agreement, signed on March 5, 2011, with Sarah Iverson (Iverson) to sell their property at 2637 Samoan Way, Medford, Oregon.
- 1.4 On June 4, 2011, Ralston wrote an offer for Richard and Marlene Nuckols (Nuckols') on the subject property with earnest money set as a promissory note for \$1,000 due and payable five business days after mutual acceptance of the Agreement. The promissory note did not contain any payee.
- 1.5 On June 6, 2011, the Herds rejected the Nuckols' offer and made a counter offer, which included the following modification: "earnest money to be increased to \$2,000 and promissory note to be redeemed within 3 business days of mutual acceptance."
- 1.6 Due to the fact that the Nuckols were unable to obtain financing, the Nuckols were unable to purchase the Herds' property.

111

30

CONCLUSIONS OF LAW

2.

2.1 Ralston did not send the documents relating to the failed attempt to purchase Mr. and Mrs. Herd's property by Mr. and Mrs. Nuckols in April, 2011 to his principal broker.

Violation: OAR 863-015-0255(3) (2010 Edition), which requires a real estate broker to transmit to the real estate broker's principal real estate broker within three banking days of receipt of any documents received by the licensee in any professional real estate activity in which the licensee is engaged.

2.2 Ralston failed to ensure that the promissory note signed on June 4 and 6, 2011, contained the name of a payee.

Violation: OAR 863-015-0135(7) (4/15/11 Edition), which requires that, when preparing a promissory note for use as earnest money, a licensee must make the note payable upon the seller's acceptance of the offer or payable within a stated time after the seller's acceptance. Absent a written agreement to the contrary, the note must be made payable to the seller.

2.3 Ralston did not send the promissory note signed on June 4 and 6, 2011, in a timely manner to his principal broker.

Violation: OAR 863-015-0255(3) (4/15/2011 Edition), which requires a real estate broker to transmit to the real estate broker's principal real estate broker within three banking days of receipt of any documents received by the licensee in any professional real estate activity in which the licensee is engaged.

2.4 Ralston failed to notify the Herds or their agent, Iverson, until July 6, 2011, that the promissory note had not been redeemed.

Violation: ORS 696.810(2)(c) (2009 Edition), which requires that a real estate licensee acting as a buyer's agent disclose material facts known by the licensee and not apparent or readily ascertainable to a party.

2.5 On July 7, 2011, Ralston prepared a Termination Agreement for the Nuckols to sign which included the following false statement: "The sum of \$2,000 in the form of a Promissory Note has been deposited as earnest money with Amerititle."

Violation: ORS 696.810(2)(a) (2009 Edition), which requires that a real estate licensee acting as a buyer's agent deal honestly and in good faith.

 2.6 Ralston did not send copies of the Addendum #2 and the Termination Agreement dated July 7, 2011 to his principal broker in a timely manner.

Violation: OAR 863-015-0255(3) (2010 Edition), which requires a real estate broker to transmit to the real estate broker's principal real estate broker within three banking days of receipt of any documents received by the licensee in any professional real estate activity in which the licensee is engaged.

2.7 On July 8, 2011, Ralston stated in an email to Iverson, referring to the promissory note, that "My understanding though not confirmed, is that it has not been deposited", although two days before Ralston had received a phone call from Amerititle confirming the fact. On the day before Ralston emailed Nuckols, Ralston discovered that the note had not been perfected.

Violation: ORS 696.810(2)(a) (2009 Edition), which requires that a real estate licensee acting as a buyer's agent deal honestly and in good faith.

3.

- 3.1 OREA reserves the right to investigate and pursue additional complaints that may be received in the future regarding this licensee.
- 3.2 ORS 696.301 states that violations, such as those defined above, are grounds for discipline.

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 2 amended notice of intent may be issued in this matter. I understand that, in accordance with

3	the provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real
4	Estate News Journal.
5	ORDER
6	IT IS HEREBY ORDERED that Ralston be, and hereby is, reprimanded.
7	
8	IT IS SO STIPULATED: IT IS SO ORDERED:
9	
10	
11	Dengs the Silly
12	GEORGE RALSTON GENE BENTLEY
13	Real Estate Commissioner
14	Date 4/27/12 Date 4.1.30.12
15	
16	DATE of service: 5-1-12
17	
18	
19	
20	
21	
っっ	