# OREGON REAL ESTATE AGENCY BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of	}
ROBERT SAMMONS	ORDER ON DEFAULT

- 1.1 On November 5, 2012, the Real Estate Commissioner issued, by certified mail, a notice of intent to revoke the real estate property manager's license of Robert Sammons (Sammons). The Real Estate Agency (OREA) sent the notice of intent to Sammons's last known address of record with the OREA. The notice of intent was also mailed to Sammons by regular first class mail in a handwritten envelope.
- 1.2 Both copies of the notice of intent mailed on November 5, 2012, were returned to OREA with a "Forward time expired" notation, and a new address of 2351 Victor Ave Apt 33, Redding, California, 96002. The notice of intent was resent to the new address, by certified and regular first class mail, on November 21, 2012.
- 1.3 Over twenty (20) days have elapsed since the mailing of the notice issued in this matter and no written request for hearing has been received.
- 1.4 Copies of the entire investigation file are designated as the record for purposes of default, including any submission from respondent and all information in the administrative file relating to the mailing of notices and any responses received.

2.

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

2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is properly served when deposited in the United States mail, registered or certified mail, addressed to the real estate licensee or to any other person having an interest in a proceeding before the Commissioner at the licensee's or other person's last known address of record with OREA.

- 2.2 Sammons's last known address of record with OREA was PO Box 75, Brookings, Oregon, 97415.
- 2.3 A certified mailing of the notice of intent was mailed to Sammons at his last known address of record on November 5, 2012. It was returned to OREA with a "Forward time expired" notation, and a new address of 2351 Victor Ave Apt 33, Redding, California, 96002. The notice of intent was resent to the new address, by certified and regular first class mail, on November 21, 2012. It has not been returned to OREA.
- 2.4 The second mailing in the handwritten envelope has not been returned to OREA. In accordance with ORS 40.135(1)(q), there is a presumption that the mailing properly addressed and placed with the U.S. Postal Service was delivered. That presumption has not been overcome by any evidence.
- 2.5 Over twenty (20) days have elapsed since the mailing of the notice and no written request for a hearing has been received.

## FINDINGS OF FACT

### AND

#### CONCLUSIONS OF LAW

3.

- 3.1 At all times mentioned herein, Sammons was licensed as a property manager and doing business under the registered business name of TruDiamond Management, LLC (TruDiamond).
- 3.2 On November 3, 2011, OREA received a complaint from Robert Flury (Flury) alleging that Sammons closed his property management company on October 10, 2011, and did not forward to Flury approximately \$1,168.75 in rental and reserve deposit funds for September 2011.
- 3.3 On November 17, 2011, OREA received a complaint from Clyde Severson (Severson), alleging that Sammons had not forwarded a monthly statement nor net rental funds to him since June 2011 for the management of Severson's three rental properties located at 98428 N. Bank Chetco Road, Brookings, Oregon, Units A, B and C. Severson stated that his attempts to contact Sammons had been unsuccessful.

- 3.4 On February 27, 2012, OREA received a complaint from Joseph Martinelli (Martinelli) alleging that Sammons had not paid him approximately \$4,450 in rental income and security deposits for the management of Martinelli's rental property located at 1700 Eastwood Lane, Brookings, Oregon.
  - 3.5 The subsequent investigation found the following violations.
- 3.6 For the property owned by Severson, Sammons failed to provide Severson with a monthly accounting of rents received or expenses paid, per the terms of the property management agreement, for July through October 2011.

**Violation:** ORS 696.890(3)(d) (2011 Edition), which requires that property managers account in a timely manner for all funds received from or on behalf of the owner.

3.7 For the property owned by Severson, Sammons failed to provide Severson approximately \$8,000 in tenant rent and security deposit funds from March through October 2011.

**Violation:** ORS 696.301(12) and (14) (2011 Edition), which states that a 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.

3.8 For the property owned by Severson, Sammons failed to document in writing authorization from Severson to rent Units A, B and C for a monthly rent amount of \$600 per unit.

**Violation:** ORS 696.301(12) (2011 Edition), which states that a licensee may be disciplined if they demonstrate incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license.

3.9 For the property owned by Severson, Sammons failed to obtain written authorization from Severson to charge monthly rent for Unit A that was less than the agreed \$600 per month.

**Violation:** ORS 696.301(12) (2011 Edition), which states that a licensee may be disciplined if they demonstrate incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license.

3.10 For the property owned by Severson, Sammons failed to include in the property management agreement between TruDiamond and Severson an identifying code and a statement that the property manager will disclose to the owner in writing the property manager's planned use of any employees or a business in which the property manager has a pecuniary interest to provide services for the owner's property.

**Violation:** OAR 863-025-0020(2)(j) and (k) (2010 Edition), which requires that property management agreements contain an identifying code and a statement that the property manager will disclose to the owner in writing the property manager's planned use of any employees or a business in which the property manager has a pecuniary interest to provide services for the owner's property.

3.11 For the property owned by Martinelli, Sammons failed to disburse approximately \$4,450 in tenant rent, security deposit and property maintenance funds to Martinelli.

**Violation:** ORS 696.301(12) and (14) (2011 Edition), which states that a 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.

#### ORDER

IT IS HEREBY ORDERED that the property manager's license of Robert Sammons be revoked, with said revocation to be effective the date of this order.

Dated this \_\_\_\_\_\_ day of December, 2012.

OREGON REAL ESTATE AGENCY

GENE BENTLEY

Real Estate Commissioner

DATE of service: 12-17-12

NOTICE: You are entitled to judicial review of this order pursuant to the provisions of ORS 183.482. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this order.