## 1 OREGON REAL ESTATE AGENCY 2 BEFORE THE REAL ESTATE COMMISSIONER 3 In the Matter of the Real Estate License of 4 5 6 **TOD BRESLAU** STIPULATED FINAL ORDER 7 8 9 10 The Real Estate Agency (OREA) and Tod Breslau (Breslau) do hereby agree and 11 stipulate to the following: 12 FINDINGS OF FACT 13 AND 14 **CONCLUSIONS OF LAW** 15 1. 16 1.1 At all times mentioned herein, Breslau was licensed as a real estate broker with 17 Destination Realty, Inc. (Destination) from December 16, 2011 through March 15, 2012, and 18 Premiere Property Group, LLC (Premiere) from March 16, 2012 forward. 19 1.2 On April 12, 2012, OREA received a complaint from Thalia Pellicori (Pellicori) 20 and Eric Helzer (Helzer), principal brokers and owners of Destination. The complaint alleged 21 that Breslau failed to submit paperwork to his principal broker while associated with 22 Destination, transferred listings without authority to his new company, Premiere, after leaving 23 Destination, and created documents on Destination paper without authority to do so. On May 24 2, 2012, Pellicori submitted a further complaint alleging forgery of a client's electronic signature 25 by Breslau. The subsequent investigation found the following violations. 26 1.3 Breslau activated the RMLS listing for 1333 N. Pacific Hwy, Woodburn on 27 December 27, 2011, as "new", downloaded 20 photographs onto the RMLS, held himself out 28 as the broker, and "Destination" as the "office" for the listing, but had no written authority to do 29 so from the property owner. 30

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Violation: OAR 863-015-0125(2)(e) (9/1/11 Edition), which states that advertising by a licensee must be done only with the written permission of the property owner or owner's authorized agent.

Breslau marketed 2104 SE 184<sup>th</sup> Ave., Gresham, Oregon, on December 20, 1.4 2011, as a Destination listing before the listing agreement was signed on January 3, 2012.

Violation: OAR 863-015-0125(2)(e) (9/1/11 Edition), which states that advertising by a licensee must be done only with the written permission of the property owner or owner's authorized agent.

1.5 Breslau intentionally interfered with the exclusive representation of Destination for the listings at 2104 SE 184<sup>th</sup>. Ave., Gresham, Oregon, and 5708 SE Leibe, Portland, Oregon, by attempting to cancel the listings and transfer them to Premiere.

Violation: ORS 693.301(7) (2011 Edition), which states that a licensee may be disciplined if they intentionally interfere with the exclusive representation or exclusive brokerage relationship of another licensee. (2 counts)

Breslau reinstated the listing for 5708 SE Leibe, Portland, Oregon, on the RMLS site as "Back on market" on March 18, 2012. This entry had his "office" as "Destination", even though he had transferred his license to Premiere.

Violation: ORS 696.301(2) and (4) (2011 Edition), which states that a licensee may be disciplined if they represent, attempt to represent or accept compensation from a principal real estate broker other than the principal real estate broker with whom the real estate broker is associated, and, if they knowingly publish materially misleading or untruthful advertising.

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OREA reserves the right to investigate and pursue additional complaints that may be received in the future regarding this licensee.

## 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

 IT IS SO STIPULATED:

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. I understand that, in accordance with the provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real Estate News Journal.

## ORDER

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

IT IS SO ORDERED:

| TOD BRESLAU | GENE BENTLEY             |
|-------------|--------------------------|
|             | Real Estate Commissioner |
| Date        | Date 4.15-13             |
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DATE of service:  $\sqrt{-5/3}$