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REAL ESTATE AGENCY BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Unlicensed Professional Real Estate Activity of

ORDER ON DEFAULT AND ORDER TO CEASE AND DESIST

TROY DAY

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1.1 On September 23, 2013, the Real Estate Commissioner issued, by certified mail. a notice of intent to levy civil penalty against Troy Day (Day). The Oregon Real Estate Agency (OREA) sent the notice of intent to Day's last known address of record with the OREA. The notice of intent was also mailed to Day by regular first class mail in a handwritten envelope.

- The certified mailing was returned to the OREA as "Not Deliverable as 1.2 Addressed, Unable to Forward." The first class mailing was not returned to the OREA.
- Over twenty (20) days have elapsed since the mailing of the notice issued in this 1.3 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 Day's last known address of record with OREA was 6161 Childs Rd, Lake Oswego, OR 97035.

 2.3 A certified mailing of the notice of intent was mailed to Day at his last known address of record on September 23, 2013.

- 2.4 The 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

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- 3.1 Day is not licensed by the OREA to conduct the management of rental real estate in Oregon.
- 3.2 On March 15, 2012, OREA received a complaint from Richard Adams (Adams), alleging that Day was engaged in the management of rental real estate without a license.
 - 3.3 The subsequent investigation found the following violations.
- 3.4 Day made a deal with Rose Gospondinovic (Gospondinovic), to list three properties owned by her on Craigslist for \$150.00 per property. As time progressed, the agreement changed and Day was responsible for finding tenants, meeting and screening applicants, and placing tenants. Day was to receive \$500.00 per property from Gospondinovic upon tenant placement.
- 3.5 On January 11, 2012, Day advertised property, available by lease, located at 7030 Merry Ln., Portland, OR. The property was owned by Gospondinovic. Day used his contact information on the advertisement.
- 3.6 On January 11, 2012, Day advertised property available by lease, located at 15540 SW Village Ct, Beaverton, OR. The property was owned by Gospondinovic. Day used his contact information on the advertisement.
- 3.7 In January 2012, Day signed a lease agreement with tenants procured for 7030 Merry Ln., Portland, OR, property owned by Gospondinovic. Day also checked the

qualifications and creditworthiness of the tenants.

3.8 In February 2012, Day signed a lease agreement with tenants procured for 15540 SW Village Ct, Beaverton, OR, property owned by Gospondinovic. Day also checked the qualifications and creditworthiness of the tenants.

Violation: By advertising properties for lease, screening tenants, and signing lease agreements without a license, Day engaged in the management of rental real estate activity as described in ORS 696.010(11), which is a violation of ORS 696.020(2) (2011 Edition).

ORDER

IT IS HEREBY ORDERED that, pursuant to ORS 696.397, Day immediately cease and desist from engaging in any management of rental real estate as defined in ORS 696.010(11) unless Day first obtains a license from the OREA to perform management of rental real estate. The Commissioner's authority for this order is under ORS 696.397.

In addition, pursuant to ORS 696.990, and based upon the violation set forth above, Day, pay a civil penalty in the sum of \$3,500.00, said penalty be paid to the General Fund of the State Treasury by paying the same to the OREA.

Dated this 3155 day of October, 2013.

OREGON REAL ESTATE AGENCY

GENE BENTLEY

Real Estate Commissioner

DATE of service: 11-1-2063

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.