

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of)

5
6 CHARLES R. VAIL)

STIPULATED FINAL ORDER

7
8
9
10 The Oregon Real Estate Agency (OREA) and Charles R Vail (Vail) do hereby agree and
11 stipulate to the following:

12 FINDINGS OF FACT
13 &
14 CONCLUSIONS OF LAW

15 1

16 1.1 Vail obtained a property manager license from OREA on March 12, 2013. After
17 becoming licensed, Vail worked under his own name until October 7, 2013, when he registered
18 Vail Properties as a registered business name with OREA.

19 1.2 On June 3, 2013, OREA received a complaint from Joe Cherepanov
20 (Cherepanov) and Darlene Elliott (Elliott), former tenants of 719 Fairview Ave SE, Salem
21 Oregon (subject property). Elliot stated that Cherepanov had rented the subject property for
22 over 11 years from the owners, Roy John Bolduc (Bolduc) and Zohra Campbell (Campbell).
23 The complaint included allegations that Vail had engaged in the management of rental real
24 estate activity without a license.

25 1.3 On January 30, 2013, Vail entered into a property management agreement with
26 Bolduc. The agreement was for management of the subject property for a two year period
27 starting on January 30, 2013 and ending on January 30, 2015. The agreement was signed by
28 Vail and his wife, Priscilla Vail (Priscilla). Compensation agreed upon in the management
29 agreement was a management fee equal to ten percent (10%) of the gross receipts collected
30 from the operation of the subject property. Vail continued to manage the property under the

1 property management agreement for Bolduc after he obtained his property manager license
2 from OREA on March 12, 2013.

3 1.4 The property management agreement stated the following:

4 "...Agent shall deposit (either directly or in a depository bank for transmittal) all revenues from
5 the property into the bank account of the owner, here referred to as the trust account, and a
6 joint account for owner and agent."

7 **Violation:** By having the property management agreement require the owner of the
8 property access to the clients' trust account, Vail violated OAR 863-025-0025(9) (9/14/12
9 Edition), which states that a property manager may not allow an owner to be an authorized
10 signer on a clients' trust account and may not allow an owner to deposit, hold or disburse
11 funds in a clients' trust account.

12 1.5 Vail stated that Bolduc was willing to keep Cherepanov and Elliot as tenants, if
13 they would sign a new lease with management by the Vails. Between February 1, 2013, and
14 getting licensed on March 12, 2013, Vail stated he encouraged Bolduc to offer another lease to
15 the tenants and advised him to raise the rents on the tenants.

16 1.6 On February 1, 2013, Vail and his wife Priscilla showed up at the subject
17 property and introduced themselves as the new property managers. Vail did not receive his
18 property manager's license until March 12, 2013 and Priscilla is not licensed by OREA.

19 1.7 Cherepanov stated during the investigation that since his first meeting with Vail
20 on February 1, 2013, the property owner, Bolduc refused to take rents from him and required
21 all rents from the tenants go to Vail. During the first meeting Vail gave the tenants an
22 introductory letter from the property management company.

23 1.8 Vail collected the rent for February 2013 from the tenants. A copy of the check
24 was provided for the investigation. Dated February 1, 2013, signed by Elliott and payable to
25 the order of Charles Vail. The "For" memo line stated "Feb lease- Joe Cherepanov- 719
26 Fairview Ave SE," and was in the amount of \$1,050.00.

27 1.9 Cherepanov and Elliot provided for the investigation a note they stated was left
28 on their door on February 3, 2013. Written by Vail and Priscilla, the note reminded the tenants
29 of the "regular appointment" set for February 15, 2013 and requested a spare key to the front
30 door.

1 1.10 At the February 15, 2013 meeting, Vail and Priscilla met with the tenants to
2 discuss signing a new rental agreement that increased the rent or vacating the property in the
3 future.

4 1.11 Vail obtained the March 2013 rent check, dated February 2, 2013, for the subject
5 property.

6 1.12 Prior to becoming licensed on March 12, 2013, Vail received a management fee
7 of \$115.00 for his services.

8 **Violation:** By conducting professional real estate activity without a license by engaging
9 in the activities listed above, Vail violated ORS 696.020(2) (2011 Edition), which states an
10 individual may not engage in, carry on, advertise or purport to engage in or carry on
11 professional real estate activity, or act in the capacity of a real estate licensee, within this state
12 unless the individual holds an active license.

13 1.13 On August 1, 2013, Vail notified OREA that he opened a security deposit
14 account. The account name disclosed to OREA was "Client Fund Chkg." The account was not
15 properly named with the required language of "clients' trust account-security deposit."

16 **Violation:** By failing to have the clients' trust account security deposit account properly
17 named, Vail violated OAR 863-025-025(2) (9/14/2012 Edition), which requires a property
18 manager to open and maintain at least one clients' trust account as defined in OAR 863-025-
19 0010. Per OAR 863-025-0010(15) (9/14/2012 Edition) "Security Deposits Account," means a
20 federally insured clients' trust account labeled as "Clients' Trust Account- Security Deposits" on
21 all bank records and checks that are established and maintained by a property manager.

22 1.14 Vail opened a separate clients' trust account and failed to notify OREA of the
23 account.

24 **Violation:** By failing to notify OREA within 10 business days after the clients' trust
25 account was opened, Vail violated ORS 696.241(4), which requires a property manager to
26 notify OREA within 10 business days after the date a clients' trust account is open.

27 1.15 Letters and invoices given to tenants from April 2, 2013, April 6, 2013 and June
28 3, 2013, showed Charles Vail working for Vail Properties.

29 1.16 Vail Properties was registered with the Oregon Secretary of State on September
30 26, 2013, but was not registered with the OREA as of October 4, 2013.

1 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, pursuant to ORS 696.301 and based on the violations
7 above, that Vail's property manager license be, and hereby is, reprimanded.

8 IT IS FURTHER ORDERED that Vail must: a) complete the 60-hour Property Manager
9 Pre-License course and provide documentation, such as a certificate of completion to OREA
10 within four months from the date of this order, and b) pursuant to ORS 696.990, and based on
11 the violation set forth above, pay a \$1,500.00 civil penalty for which \$250.00 will be
12 immediately imposed for conducting the management of rental real estate activity without a
13 license, the \$1,250.00 remainder of the \$1,500.00 civil penalty will be dismissed if Vail
14 completes the 60-hour Property Manager Pre-License Course and provides a certificate of
15 completion to OREA within four months from the date of this order.

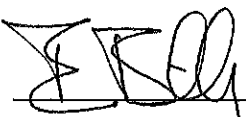
16 IT IS FURTHER ORDERED that, if Vail does not provide a certificate showing
17 completion of the 60-hour Property Manager Pre-License course to OREA within four months
18 from the date of this order, the remaining \$1,250.00 civil penalty will be imposed.

19 All civil penalties are to be paid to the General Fund of the State Treasury by paying the
20 same to the OREA.

21
22 IT IS SO STIPULATED:

IT IS SO ORDERED:

23
24 
25 _____
26 CHARLES R VAIL

27 
28 _____
29 GENE BENTLEY

30
Date 2/5/2014

Real Estate Commissioner
Date 2.11.14

DATE of service: 2-12-2014