

1 OREGON REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of)
5) SETTLEMENT AGREEMENT
6 DEPHANE A. WELDING) AND
7) STIPULATED FINAL ORDER
8)
9

10 The Oregon Real Estate Agency (OREA) and Dephane A. Welding (Welding) do hereby
11 agree and stipulate as follows:

12 1.

13 On December 9, 2013, OREA notified Welding that it was initiating disciplinary
14 proceedings based on 10 violations of law, violations 1-9, and 13, as set out in the Settlement
15 Letter dated December 9, 2013 in this proceeding (see Attachment 1). As a result of this letter,
16 Welding requested a settlement conference in a timely manner.

17 2.

18 OREA and Welding are willing to resolve this matter by stipulated agreement.

19 3.

20 Welding does not desire to contest or defend against the alleged violations and agrees
21 that OREA may enter an order revoking her principal broker license.

22 4.

23 Welding and the OREA agree that the OREA will enter an order revoking Welding's
24 principal broker license.

25 STIPULATION AND WAIVER

26 I, Welding, have read and reviewed the above settlement agreement which has been
27 submitted to me by OREA and further, the order that follows hereafter. I understand that this
28 agreement, stipulation and waiver embodies the full and complete agreement and stipulation
29 between OREA and me. I further understand that if I do not agree with this stipulation I have
30 the right to request a hearing before the Real Estate Commissioner on this matter and to be

1 represented by legal counsel at such a hearing. Hearings are conducted in accordance with
2 the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and
3 Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily
4 waive my rights to a hearing and to any OREA or judicial review of this matter. I freely and
5 voluntarily waive my rights to representation by legal counsel at any hearing.

6 I hereby agree and stipulate to the above and understand that the order that follows
7 hereafter may be completed and signed by the Real Estate Commissioner or may be rejected
8 by the Real Estate Commissioner, in which case an amended Settlement Agreement and
9 Stipulated Final Order may be issued in this matter. I understand that in accordance with the
10 provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real
11 Estate News Journal.

12 ORDER

13 Based on the settlement agreement, which is incorporated herein, the Oregon Real
14 Estate Commissioner orders that the real estate principal broker license of Dephane A.
15 Welding is hereby revoked.

16
17 STIPULATED AND AGREED:

18 
19 _____
20 DEPHANE A. WELDING

21
22 Date: 1/14

STIPULATED, AGREED AND ORDERED:

23 
24 _____
25 GENE BENTLEY
26 Real Estate Commissioner

27 Date: 1.8.14

28 DATE of service: 1-8-2014
29
30



Oregon

John A. Kitzhaber, MD, Governor

Real Estate Agency

1177 Center St NE

Salem, OR 97301-2505

Phone: (503) 378-4170

Regulations Fax: (503) 373-7153

Business Fax: (503) 378-2491

Licensing Fax: (503) 378-3256

www.rea.state.or.us

December 9, 2013

Dephane Welding
PO Box 5126
Klamath Falls OR 97601

RE: File #2013-81

Dear Ms. Welding:

Based on the facts developed in the investigation of the referenced complaint file, the Oregon Real Estate Agency (the Agency) intends to take administrative action for possible violations of Oregon Revised Statutes (ORS) and/or Oregon Administrative Rules (OAR). A copy of the investigative report is enclosed for your reference.

The Agency believes that your actions are in violation of the following Agency statutes and rules and are subject to sanction under ORS 696.301.

1. By managing an apartment complex for owner, Paris "Mako" Hachiska (Mako), through a property management agreement that lacked:
 - a. An identifying code;
 - b. The management fees, application fees, screening fees, rebates, discounts, overrides and any other form of compensation to be received by you for management of the complex including when such compensation is earned and when it will be paid;
 - c. Notice in writing of the use of an employee or a business in which the property manager has a current and/or future pecuniary interest to provide services to the complex;
 - d. The address or legal description of the complex;
 - e. Disposition of the records of management of the complex after termination of the agreement;
 - f. The date and term of the agreement; and
 - g. Signature of agreement by you or your delegate;You violated OAR 863-025-0020(2) (2009 Edition, 1/1/09).
2. By failing to monthly reconcile the clients' trust account holding Mako's, along with others', funds, within 30 calendar days of the bank statement pursuant to the requirements contained in this rule, during the time period of January 2012 to August 2012 under review, you violated OAR 863-025-0025(20) (2011 Edition, 9/1/11) (9 occurrences).
3. By failing to post all entries chronologically in the check register, including the account balance after each entry, for the clients' trust account holding Mako's funds, you violated OAR 863-025-0040(1) and (2)(e) (2011 Edition, 9/1/11).



4. Between 1/1/12 and 8/31/12, funds were disbursed in excess of sufficient funds to cover the disbursement, and the check register became negative and stayed negative at least overnight, in violation of OAR 863-025-0040(7) and 863-025-0025(12) (2011 Edition, 9/1/11) (14 occurrences).
5. By failing to post entries with the identifying code of the owner on the check register for the clients' trust account, you violated OAR 863-025-0040(2)(c) (2011 Edition, 9/1/11).
6. By failing to prepare and maintain a separate owner's ledger for Mako's funds, for all monies received and disbursed during each month, as well as failing to show all receipts and disbursements on the written monthly report to Mako, you violated OAR 863-025-0055(1), (3), and (4) (2011 Edition, 9/1/11).
7. Between 1/4/12 and 8/8/12, funds were received and accepted by you in the amount of \$91,740.50, but deposits were only made in the amount of \$60,703.25 (leaving \$31,037.25 unaccounted for), in violation of OAR 863-025-0065(1) (2011 Edition, 9/1/11) and ORS 696.301(14) (2011 Edition) (94 occurrences).
8. Funds received between 1/19/12 and 1/30/12 were not deposited until 2/7/12, longer than the allowable 5 banking days, in violation of OAR 863-025-0065(1) (2011 Edition, 9/1/11) (8 occurrences).
9. Between 1/30/12 and 7/2/12, 6 checks of \$750.00 were written to you personally, and one check from 8/9/12 for \$650.00 (total of \$5,150.00) was written to you, without indication of the source of the expense or to which owner it relates, in violation of ORS 696.301(14) (2011 Edition) (7 occurrences).
10. By maintaining a clients' trust account with the name Century 21 McDowell & Associates after ceasing operations of that company on 2/11/08, and writing a check out of the account on 9/16/09 and depositing funds into the account after 9/27/10, you violated ORS 696.026(4) (2009 Edition).
11. By failing to notify the Agency of and authorize inspection of the above clients' trust account, account number ending in -4272, you violated ORS 696.241(2) and (3) (2009 Edition).
12. By failing to notify the Agency of and authorize inspection of the clients' trust account number ending in -2847, you violated ORS 696.241(4) (2011 Edition).
13. Through the above listed violations, you have demonstrated incompetence or untrustworthiness in performing any act for which you are required to hold a license, in violation of ORS 696.301(12) (2009 and 2011 Editions).

The purpose of this letter is to inquire as to whether you would be willing to settle the matter and avoid the time and expense of a formal administrative hearing by entering into a stipulated order resulting in a revocation of your license. If you wish to accept this offer, please contact Denise Lewis at (503) 378-4761 within two weeks of the date of this letter.

If you are interested in discussing this matter on an informal basis with the Agency, contact Denise Lewis at the number above within two weeks of the date of this letter to schedule a settlement conference to occur within 30 days of the date of this letter.

The proposed sanction may be changed if the matter is not resolved by stipulated agreement. If this matter cannot be resolved by stipulated agreement, we are prepared to move this matter forward by issuing a Notice of Intent, which is the first step in the formal disciplinary process; however, we are willing to refrain from taking this action in the event a successful settlement can be achieved.

You also may arrange to review the entire investigative file by contacting Denise Lewis at (503) 378-4761. Copies of file documents can also be made available to you for a fee under the Public Records Law.

The enclosed document entitled "The Settlement Process" provides additional information for your consideration.

Respectfully,



Selina Barnes
Regulations Division Manager
503-378-4637