

1 REAL ESTATE AGENCY  
2 BEFORE THE REAL ESTATE COMMISSIONER  
3

4 In the Matter of the Real Estate License of

5  
6 LAUREN ALEXANDRA HYLAND

7  
8 STIPULATED FINAL ORDER  
9

10 The Real Estate Agency (OREA) and Lauren Alexandra Hyland (Hyland) do hereby  
11 agree and stipulate to the following:

12 FINDINGS OF FACT  
13 &  
14 CONCLUSIONS OF LAW

15 1.

16 1.1 At all times mentioned herein, Hyland was licensed as a property manager  
17 working under the registered business name Cherry City Properties, LLC.

18 1.2 On July 17, 2014, OREA mailed Cherry City Properties, LLC a notice of a  
19 mandatory mail-in clients' trust account audit, for the month of March 2014, for clients' trust  
20 account ending in #6041.

21 1.3 On August 18, 2014, OREA received a copy of a reconciliation for clients' trust  
22 account (CTA) security deposits ending in #6041, for the period ending March 31, 2014. The  
23 reconciliation was prepared by Barbara Durham (Durham), bookkeeper for Chery City  
24 Properties, dated April 11, 2014, and was signed by Hyland on April 11, 2014. On the  
25 reconciliation, only part one was filled in, showing the reconciled bank balance of \$18,548.97,  
26 as of March 31, 2014. The totals for part two, the check register, and part three, tenants'  
27 security deposits were left blank. Supporting documents showed security deposit balances for  
28 twenty tenants, and totaled \$13,321.38. No other supporting documentation was received.

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1           1.4    On September 4, 2014, Compliance Specialist, Lindsey Nunes (Nunes) emailed  
2 Hyland to follow up on a voicemail Nunes had left for Hyland on August 20, 2014. In the email,  
3 Nunes informed Hyland that she needed a complete bank statement and a completed trust  
4 account reconciliation in order to complete the audit. Nunes also informed Hyland that the  
5 security deposits ledgers did not seem to balance.

6           1.5    On September 17, 2014, Nunes sent an email to Hyland requesting reconciliation  
7 information for the month of August 2014, for the CTA and the security deposits account.

8           1.6    On September 19, 2014, Hyland submitted another reconciliation for the security  
9 deposits account ending in #6041, for the period ending March 31, 2014. The total for part one  
10 of the reconciliation showed a reconciled bank balance of \$21,021.30 as of March 31, 2014. A  
11 review of the supporting documents showed this was an incorrect amount for the reconciled  
12 bank balance. The correct amount of the reconciled bank balance should have been  
13 \$18,548.97. The total for part two of the reconciliation showed the balance of the check  
14 register as of March 31, 2014, was \$21,021.30. The actual amount showing on the check  
15 register as of March 31, 2014, could not be determined as a copy of the check register was not  
16 supplied as supporting documentation. The total for part three of the reconciliation showed the  
17 totals of the tenants' security deposit ledger was \$83,714.02. According to the supporting  
18 documentation submitted, several tenants had negative balances on their ledgers. According  
19 to the reconciliation, the security deposit account was short by \$62,692.72.

20           1.7    On September 19, 2014, Hyland submitted the reconciliations for the month of  
21 August 2014, for the CTA and the security deposits account, as requested by Nunes.

22           1.8    For security deposit account ending in #6041, for the period ending in August 31,  
23 2014, part one showed a balance of \$73,546.59, an incorrect amount. The actual reconciled  
24 bank balance as of August 31, 2014, was \$44,888.55. The total for part two of the  
25 reconciliation showed a balance of \$73,546.59, also an incorrect amount. The actual balance  
26 showing on the check register for this period was \$44,888.55 as of August 31, 2014. Part  
27 three of the reconciliation shows the total for the tenants' security deposits ledger was  
28 \$75,742.84. This amount was incorrect and includes several tenant ledgers with negative  
29 balances. According to Hyland's reconciliation, the security deposits account was short  
30 \$2,196.25.

1 1.9 The reconciliation for CTA ending in #5303 for period ending August 31, 2014  
2 contained similar errors as the security deposits account reconciliation.

3 **Violation:** By failing to properly complete the monthly reconciliations for CTA ending in  
4 #5303 and security deposits account ending in #6041, Hyland violated OAR 863-025-  
5 0025(20), and (21) (4/1/2013 and 5-15-14 Editions), which states a property manager must  
6 reconcile each CTA and security deposits account within 30 calendar days of the date of the  
7 bank statement. The reconciliation must contain three required components. Additionally, by  
8 failing to take corrective actions to resolve all adjustments to the monthly reconciliations  
9 Hyland violated, OAR 863-025-0025(22) (4/1/2013 and 5/15/14 Editions), which requires a  
10 property manager to take corrective action to resolve all adjustments made in a reconciliation  
11 prior to the next reconciliation or document the good faith efforts the property manager has  
12 taken to resolve the adjustment.

13 1.10 On October 9, 2014, Hyland met with OREA Investigator/Auditors Robert Pierce  
14 (Pierce) and Frances Hlawatsch. When Hyland was asked why there were negative balances  
15 on some of the owners' ledgers, Hyland admitted she paid bills for the property prior to there  
16 being sufficient funds in the owners ledger account. Hyland said she pays the owners their  
17 draw on or around the tenth day of each month and sometimes bills come in after the tenth.  
18 Hyland said she was too nice and did what needed to be done to prepare the properties for  
19 rent or to maintain them, sometimes letting the owner slide on paying the maintenance and  
20 repair bills for a time.

21 **Violation:** By making disbursements from the owners' CTA ending in #5303, which  
22 caused owners' ledgers to have negative balances Hyland violated OAR 863-025-0025(12)  
23 (9/1/11, 9/14/11, 4/1/13, and 5/15/14 Editions), which states a property manager must not  
24 disburse funds from a clients' trust account unless there are sufficient funds, in the ledger  
25 account against which the disbursement is made.

26 1.11 Hyland was asked to explain the tenant ledger for a tenant named Montiras in  
27 property #SO69. The ledger showed a security deposit received on April 15, 2011, in the  
28 amount of \$500.00. Several disbursements were made during 2011, 2012, and 2014, that  
29 were listed as maintenance, lawn maintenance, and some identified only by the property  
30 address, with no description of purpose of the disbursement. Hyland acknowledged that this

1 tenant was still residing in the property. She explained according to the tenant lease  
2 agreement, the tenant was responsible for maintaining the lawn and yard, but had not been  
3 doing so. Hyland said she had to hire a landscaping company to clean it up, and had paid the  
4 landscaper from the security deposits account.

5 1.12 When Hyland was asked why she had allowed the tenant to violate the lease  
6 agreement for over three years, and had not been billed to replace the security deposit, she  
7 replied that the tenant did not speak English and the lease agreement had been negotiated by  
8 the tenant's employer. She said she decided she would just pay for the landscaper herself if  
9 she couldn't get the money from the tenant.

10 1.13 Hyland was asked if the property owner was aware the tenants' security deposit  
11 had already been used, and there was no longer a security deposit being held for his property.  
12 Hyland replied, "Probably not."

13 **Violation:** By failing to specify the purpose of all disbursements on the tenants ledgers  
14 (SO69 tenant Montiras), Hyland violated OAR 863-025-0050(4)(e)(E) ( 9/1/11, 9/14/12 and  
15 4/1/13 Editions), which state the tenant ledger must contain for each disbursement of funds,  
16 the purpose of the disbursement.

17 **Violation:** By failing to take action against a tenant who was failing to maintain the  
18 lawn, in violation of the lease agreement, Hyland violated ORS 696.890(3)(f) (2011 Edition)  
19 ORS 696.890(4)(f) (2013 Edition), which states, a property manager owes the property owner  
20 the following affirmative duties, (f) to be loyal to the owner by not taking action that is adverse  
21 or detrimental to the owner's interest.

22 1.14 When Hyland met with Pierce on October 9, 2014, Hyland admitted she was  
23 transferring money from the security deposit account #6041 to the owners' CTA #5303 to  
24 cover shortages in the owners CTA. Hyland said she took out a loan and paid the money back  
25 into the security deposit account to make up the shortfall.

26 **Violation:** By using funds from the security deposit CTA to cover checks written on the  
27 owners' CTA Hyland violated ORS 696.890(3)(e) (2011 Edition) and ORS 696.890(4)(e) (2013  
28 Edition), which states a property manager owes the property owner the following affirmative  
29 duties, (e) to act in a fiduciary manner in all matters relating to trust funds. Additionally, Hyland  
30 violated OAR 863-025-0030(1) (9-1-11, 9-14-12, 4-1-13, and 5-15-14 Editions) which state,

1 except as provided in section (3) of this rule, all tenants' security deposits received by a  
2 property manager must be deposited and maintained in a security deposit account until: (a) the  
3 property manager forwards the tenants' security deposit to the owner of the property according  
4 to the terms of the tenants' rental or lease agreement and the property management  
5 agreement; (b) the property manager disburses the tenant's security deposit for purposes  
6 authorized by the tenant's rental or lease agreement and the property management  
7 agreement, (c) the property manager refunds a deposit to the tenant according to the terms of  
8 the tenant's rental or lease agreement and the property management agreement; or (d) the  
9 property management agreement is terminated and the property manager transfers the  
10 tenant's security deposit to the owner unless the owner directs the property manager in writing,  
11 to transfer the security deposits and fees to another property manager, escrow agent or  
12 person.

13       1.15 Hyland identified and corrected the errors contained in her ledgers and  
14 reconciliations and on March 16, 2015, OREA received from Hyland the security deposit  
15 account reconciliation for account ending in #6041 for the period ending January 31, 2015.  
16 This reconciliation indicated a shortage of only \$60.30. Hyland explained that this shortage  
17 was due to previously charged bank fees and that she had written a check to replace the fees  
18 after the reconciliation was complete.

19       1.16 On March 16, 2015, OREA also received, the reconciliation for CTA ending in  
20 #5303 for the period ending January 31, 2015. The documentation showed a shortage to be  
21 \$473.25, from check orders and bank fees. Hyland deposited a check from her operating  
22 account for that amount to balance the CTA. However, the owners' ledger showed 23 owners  
23 with negative ledger balances. Hyland acknowledged she is working on collecting the money  
24 from the owners, and if unable to, she will need to make efforts to replenish the money using  
25 her personal funds. At this time, based on the negative owner ledger balances, there still is a  
26 shortage in the clients' trust account ending in #5303.

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2.1 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 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. 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 Hyland's property manager license be, and hereby is reprimanded.

IT IS FURTHER ORDERED that Hyland complete the 27 hour Property Manager Advanced Practices course, (detailed in OAR 863-022-0022) by March 31, 2016. Hyland must submit documentation, such as a certificate to OREA showing completion of the 27-hour Property Manager Advanced Practices course. This documentation must be submitted to OREA by April 30, 2016.

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1 IT IS FURTHER ORDERED that Hyland submits reconciliations and supporting  
2 documentation for CTA ending in #5303, and security deposits account ending in #6041 for the  
3 months of December 2015, and March 2016. These reconciliations and supporting  
4 documentation must be submitted to OREA Investigator/Auditor Pierce for review. The  
5 December 2015 reconciliations for both the CTA ending in #5303 and security deposits  
6 account ending in #6041 must be submitted to OREA by January 31, 2015. The March 2016  
7 reconciliations for CTA ending in #5303 and security deposits account ending in #6041 must  
8 be submitted to OREA by April 30, 2016.

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10 IT IS SO STIPULATED:

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13 \_\_\_\_\_  
14 LAUREN ALEXANDRA HYLAND

15  
16 Date

11-30-15

IT IS SO ORDERED:

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19 \_\_\_\_\_  
20 GENE BENTLEY

21 Real Estate Commissioner

22 Date

12-3-15

23  
24 DATE of service: 12-3-15  
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