

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of)
5)
6 TERRY S. SHOCKLEY) ORDER ON DEFAULT
7)
8)

9 1.

10 1.1 On February 4, 2015, the Real Estate Commissioner issued a notice of intent to
11 revoke the real estate principal broker's license of Terry S. Shockley (Shockley). The notice of
12 intent was served by personal service by Oregon Real Estate Agency (OREA) Regulations
13 Manager, Selina Barnes (Barnes). Barnes served the notice of intent to Shockley on February
14 4, 2014.

15 1.2 On February 11, 2015, OREA received Shockley's request for a hearing through
16 his attorney James Mountain.

17 1.3 A hearing was scheduled for May 29, 2015. On April 15, 2015, the Department
18 of Justice received a withdrawal of request for hearing and relinquishment of real estate
19 license from attorney James Mountain on behalf of Shockley. Shockley is therefore in default.

20 1.4 Copies of the entire investigation file are designated as the record for purposes
21 of default, including any submission from respondent and all information in the administrative
22 file relating to the mailing of notices and any responses received.

23 2.

24 Based upon the foregoing and upon a review of the above described investigation
25 reports, documents and files, the Real Estate Commissioner makes the following:

26 FINDINGS OF FACT

27 AND

28 CONCLUSIONS OF LAW

29 2.1 At all times mentioned herein, Shockley was licensed as a principal broker doing
30 business under the registered business name of Property Management Concepts (PMC),

1 which is an assumed business name for TS Property Management Inc., registered with the
2 Oregon Secretary of State. Shockley also conducted real estate business under the name
3 Eugene Rentals. Eugene Rentals is an assumed business name for TS Property Management
4 Inc., registered with the Oregon Secretary of State.

5 2.2 Shockley was selected for a mail-in clients' trust account (CTA) audit on
6 February 5, 2013, and was required to send OREA the three-way reconciliation and supporting
7 documents for the month of December 2012 for CTA ending in #6014 at Umpqua Bank. From
8 the review of the reconciliation documents submitted, Shockley's audit was cleared.

9 2.3 As part of the December 2012 CTA audit, the December 2012 bank statement
10 submitted by Shockley for the CTA ending in #6014, showed a closing balance of
11 \$1,988,567.24. According to the December 2012 reconciliation documents provided for the
12 audit, there was \$1,079,742.15 in outstanding/unpresented checks, causing the adjusted bank
13 balance to be \$908,825.09.

14 2.4 On November 3, 2014, OREA received a complaint from Ronald D. Smetana
15 (Smetana) alleging two checks issued by PMC were returned due to insufficient funds.

16 2.5 Smetana alleged that the checks were issued from PMC's CTA. The first check,
17 #47211, was issued on October 16, 2014, from the CTA ending in #6014, for the amount of
18 \$2,002.00, for Smetana's owner draw. Smetana complained to PMC, and a second check,
19 #47406, was issued by PMC on October 27, 2014, also from the CTA ending in #6014, in the
20 amount of \$2,014.00 to cover Smetana's owner draw and the fee of the returned check. The
21 second check was also returned for insufficient funds.

22 2.6 On January 5, 2015, OREA opened an investigation.

23 2.7 On January 23, 2015, Shockley provided to OREA bank statements, for account
24 ending in #6014, including a bank statement for January 2013. The opening balance on the
25 January 2013 bank statement was \$112,020.83.

26 2.8 Based on the balance of the January 2013 bank statement, OREA reviewed the
27 records Shockley submitted for the December 2012 CTA audit. The review revealed the
28 closing balance of \$1,988,567.24 listed on the bank statement was incorrect and appeared to
29 have been altered.

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1 2.9 On January 28, 2015, a December 2012 bank statement for CTA ending in
2 #6014 was obtained from Umpqua Bank, with an end of the month balance of \$112,020.83 for
3 December 2012. This confirmed the December 2012 bank statement submitted by Shockley
4 for the CTA audit was incorrect and had been altered.

5 2.10 During his interview on January 27, 2015, with OREA investigator, Peter Bale
6 (Bale), Shockley took responsibility for what happened and acknowledged he was the "author"
7 of the altered bank statement which he submitted with the 2012 CTA reconciliation. Shockley
8 said he altered the bank statement so he could send to OREA, "something you would like to
9 see."

10 **Violation:** By presenting an altered bank statement that he knew was inaccurate for the
11 December 2012 CTA audit, Shockley violated ORS 696.301(12) (2013 Edition), which states a
12 licensee may be subject to discipline if they have demonstrated incompetence or
13 untrustworthiness in performing any act for which the licensee is required to hold a license.
14 Additionally, by his actions Shockley committed an act of fraud or engaged in dishonest
15 conduct substantially related to the fitness of the applicant or licensee to conduct professional
16 real estate activity in violation of ORS 696.301(14) (2013 Edition).

17 2.11 Later, in his interview on January 27, 2015, with Bale, Shockley said it was a long
18 time since he had completed a three-way reconciliation of the CTA. He later said he could not
19 remember ever doing one, and that it must have been over 20 years since he had last done
20 one.

21 **Violation:** By failing to complete the required three-way reconciliations, Shockley
22 violated ORS 696.301(3) (2007, 2009, 2011 and 2013 Editions) as it incorporates: OAR 863-
23 025-0025(20) (11-14-08, 1-1-09, 6-15-10, 4-15-11, 9-1-11, 9-14-12, 4-1-13, 5-15-14, Editions),
24 which states a property manager must reconcile each clients' trust account within 30 calendar
25 days of the date of the bank statement, requiring three components for the reconciliation; OAR
26 863-025-0025(19) (3-12-07, 4-13-07, 8-15-07, 11-15-07), which states a property manager
27 shall reconcile each clients' trust account at least once a month; and OAR 863-025-0025(5) (9-
28 15-06 Edition), which states a property manager shall prepare and reconcile all property
29 management clients' trust accounts at least once each month. Also, by failing to complete the
30 required reconciliations, Shockley demonstrated incompetence per ORS 696.301(12) (2007,

1 2009, 2011 and 2013 Editions), which states a licensee can be subject to discipline if they
2 have demonstrated incompetence or untrustworthiness in performing any act for which the
3 licensee is required to hold a license.

4 2.12 On January 20, 2015, PMC staff supplied Bale with owner statements for
5 November 2014. An estimate of the tenants' security deposits and owner reserves for
6 November 2014 combined, prepared from these statements totaled \$945,369.80. The CTA
7 ending in #6014 at Umpqua Bank, containing owners' funds and tenants' security deposits
8 showed a balance of \$9,172.33 on November 30, 2014.

9 2.13 On January 28, 2015, the balance on the CTA ending in #6014, as reported by
10 Umpqua Bank was \$982.96.

11 2.14 During his interview on January 27, 2015, with Bale, Shockley acknowledged a
12 shortfall, saying it was a 26 year problem, not one that involved a check written to him taking
13 money out of the account. Shockley also stated he was terrible at bookkeeping.

14 **Violation:** By causing and/or allowing funds in the CTA ending in #6014 to be
15 depleted and unaccounted for, Shockley violated ORS 696.301(12) (2013 Edition), which
16 states a real estate licensee is subject to discipline if they have demonstrated incompetence or
17 untrustworthiness in performing any act for which the licensee is required to hold a license.
18 Additionally, by his actions Shockley committed an act of fraud or engaged in dishonest
19 conduct substantially related to the fitness of the applicant or licensee to conduct professional
20 real estate activity, without regard to whether the act or conduct occurred in the course of
21 professional real estate activity in violation of ORS 696.301(14) (2013 Edition).

22 3.

23 3.1 Based on these findings, OREA is revoking Shockley's principal broker license.
24 A revocation of Shockley's real estate license is appropriate for violations of ORS 696.301(12)
25 (2007, 2009, 2011 and 2013 Editions) and (14) (2011 and 2013 Editions). A revocation is
26 appropriate under ORS 696.396(2)(c)(A), (B), and (C). According to ORS 696.396, OREA
27 may revoke a real estate license if the material facts establish a violation of a ground for
28 discipline under ORS 696.301 that results in significant damage or injury, exhibits
29 incompetence in the performance of professional real estate activity, or exhibits dishonesty or
30 fraudulent conduct.

