

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER

3
4 In the Matter of the Unlicensed Professional
5 Real Estate Activity of
6
7 JANA TONEY
8

STIPULATED FINAL ORDER

9
10 The Oregon Real Estate Agency (OREA) and Jana Toney (Toney) do hereby agree and
11 stipulate to the following:

12 FINDINGS OF FACT
13 &
14 CONCLUSIONS OF LAW

15 1.

16 1.1 At all times mentioned herein, Toney was not licensed to conduct professional
17 real estate activity in Oregon.

18 1.2 On September 4, 2013, OREA received a complaint from Cindy Pickering-
19 Smolen (Smolen) and CJ Smolen (Cindy and CJ referred to together as the Smolens), former
20 tenants of 1090 Edwina Ave., Central Point, Oregon (subject property). Smolen stated Toney
21 was unlicensed and alleged Toney acted as the property manager of the subject property on
22 behalf of the owner, James Stanley "Stan" Phillips (Phillips), during the Smolens' tenancy.

23 1.3 Toney said she was friends with Phillips and was doing him a favor by looking
24 over the subject property and picking up the rent from the tenants.

25 1.4 A residential lease agreement dated November 16, 2009, was signed between
26 "TP Management" and the Smolens. Toney of "Toney Property Management" signed as the
27 management on the agreement.

28 1.5 A "Month- to Month Rental Agreement" dated November 16, 2009, was signed by
29 Toney of "Toney Property Management." The rental agreement stated rent was \$644.00 per
30 month.

1 1.6 Documentation from the Housing Authority of Jackson County (HAJC) shows
2 "Cynthia Pickering" as the tenant and "Jana Toney TCS" as manager from December 1, 2009,
3 to August 31, 2012. "Cynthia Pickering" is Cindy Pickering-Smolens (Smolens). Additionally, the
4 business address, check address, and correspondence address of "Jana Toney TCS" was
5 Taney's post office box address.

6 1.7 Payments were made from HAJC on behalf of Smolens to "Jana Toney TCS" for
7 rent at the subject property.

8 1.8 A review of the financial documents shows the following:

- 9 • For January 2010-March 2010, total rent received was \$800.00 each
10 month. HAJC paid Jana Toney TCS \$475.00 per month on behalf of
11 Smolens. The Smolens paid an additional \$325.00 in cash to Toney for
12 rent each month.
- 13 • For April 2010, HAJC paid Jana Toney TCS \$475.00 on behalf of Smolens.
- 14 • For May 2010-November 2010, total rent received by Toney was \$800.00
15 each month. HAJC paid Jana Toney TCS \$475.00 per month on behalf of
16 Smolens. The Smolens paid an additional \$325.00 in cash to Toney for
17 rent each month.
- 18 • For December 2010 and January 2011, total rent received was \$800.00
19 per month. HAJC paid Toney TCS \$550.00 per month on behalf of
20 Smolens. The Smolens paid an additional \$500.00 total, in cash, to Toney
21 for December 2010 and January 2011 combined.
- 22 • For February 2011-July 2011, total rent received was \$800.00 per month.
23 HAJC paid Toney TCS \$550.00 per month on behalf of Smolens. For
24 these months, the Smolens paid an additional \$250.00 in cash to Toney
25 for rent each month.
- 26 • For August 2011, HAJC paid Toney TCS \$550.00 on behalf of Smolens.
- 27 • For September 2011-November 2011, total rent received was \$800.00 per
28 month. HAJC paid Toney TCS \$550.00 per month on behalf of Smolens.
29 For these months, the Smolens paid an additional \$250.00 in cash to
30 Toney for rent each month.

- 1 • For December 2011, total rent received was \$800.00 per month. HAJC
2 paid Toney TCS \$420 on behalf of Smolen. The Smolens paid Toney an
3 additional \$380.00 in cash for rent.
- 4 • For January 2012, total rent received was \$800.00. HAJC paid Toney
5 TCS \$420.00 on behalf of Smolen. The Smolens paid Toney an additional
6 \$380.00 in cash for rent.
- 7 • For February 2012, total rent received was \$800.00. HAJC paid Toney
8 TCS \$420.00 on behalf of Smolen. The Smolens paid Toney an additional
9 \$380.00 in cash for rent.
- 10 • For March 2012, HAJC paid Toney TCS \$420.00 on behalf of Smolen.
- 11 • For April 2012-July 2012, total rent received was \$800.00 per month.
12 HAJC paid Toney TCS \$420.00 on behalf of Smolen. The Smolens paid
13 Toney an additional \$380.00 in cash for rent per month.
- 14 • For August 2012, HAJC paid Toney TCS \$420.00 on behalf of Smolen.
- 15 • For September 2012, total rent received was \$800.00, split between
16 Phillips and Toney. HAJC paid Phillips \$420.00 on behalf of Smolen. The
17 Smolens paid Toney an additional \$380.00 in cash for rent.
- 18 • For October 2012-November 2012, HAJC paid Phillips \$420.00 per month
19 on behalf of Smolen.
- 20 • For December 2012, total rent received was \$804.00, split between Phillips
21 and Toney. HAJC paid Phillips \$424.00 on behalf of Smolen. The
22 Smolens paid Toney an additional \$380.00 in cash for rent.

23 1.9 Toney managed the subject property from January 2010 through December 2012
24 for Phillips. Toney stated that during the time she was managing the property, she did not
25 receive any compensation for her work. However, Phillips later sent Toney a check for
26 \$1,200.00 as a "thank you" for her work with the property.

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1 **Violation:** By engaging in the management of rental real estate for Phillips, Toney
2 violated ORS 696.020(2) (2009 and 2011 Editions), which states an individual may not engage
3 in, carry on, advertise or purport to engage in or carry on professional real estate activity, or
4 act in the capacity of a real estate licensee, within this state unless the individual holds an
5 active license.

6 2.

7 STIPULATION & WAIVER

8 I have read and reviewed the above findings of fact and conclusions of law which have
9 been submitted to me by OREA and further, the order which follows hereafter. I understand
10 that the findings of fact, conclusions of law and this stipulation and waiver embody the full and
11 complete agreement and stipulation between OREA and me. I further understand that if I do
12 not agree with this stipulation I have the right to request a hearing on this matter and to be
13 represented by legal counsel at such a hearing. Hearings are conducted in accordance with
14 the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and
15 Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily
16 waive my rights to a hearing, to representation by legal counsel at such a hearing, and to
17 judicial review of this matter.

18 I hereby agree and stipulate to the above findings of fact and conclusions of law and
19 understand that the order which follows hereafter may be completed and signed by the Real
20 Estate Commissioner or may be rejected by the Real Estate Commissioner, in which case an
21 amended notice of intent may be issued in this matter.

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ORDER

IT IS HEREBY ORDERED that, pursuant to ORS 696.397, Toney immediately cease and desist from engaging in any professional real estate activity as defined in ORS 696.010(14)(a) to (n) (2013 Edition) unless Toney first obtains a real estate license from the OREA. The Commissioner's authority for this order is under ORS 696.397.

IT IS FURTHER ORDERED that, pursuant to ORS 696.990 and based upon the violation set forth above, Toney pay a civil penalty in the sum of \$200.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to OREA.

IT IS SO STIPULATED:

IT IS SO ORDERED:

Jana Toney
JANATONEY

Gene Bentley
GENE BENTLEY

Date 1/23/15

Real Estate Commissioner
Date 2.20.15

DATE of service: 2-20-2015