

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of

5
6 LINDA J. MOODY

7)
8) STIPULATED FINAL ORDER
9)

10 The Oregon Real Estate Agency (OREA) and Linda J. Moody (Moody) do hereby agree
11 and stipulate to the following:

12 FINDINGS OF FACT
13 &
14 CONCLUSIONS OF LAW

15 1.

16 1.1 At all times mentioned herein, Moody was licensed as a principal broker doing
17 business under the registered business name Town & Country Realtors, Inc. (Town & Country)

18 1.2 On March 28, 2014, OREA received a complaint from Thomas Salyers (Salyers)
19 which involved several individuals, including Moody, and Debra Lynn O'Neal (O'Neal) who was
20 working for Moody at the time. OREA opened an investigation which was assigned to
21 Investigator/Auditor Meghan Lewis (Lewis).

22 1.3 On May 13, 2013, O'Neal signed an Independent Contractor's Agreement with
23 Moody. In the agreement O'Neal is identified as the "Property Manager." At the time the
24 agreement was signed, O'Neal was unlicensed. O'Neal told Lewis she asked Moody if she
25 could conduct property management under Moody's principal broker license. O'Neal claimed
26 Moody agreed with the condition that O'Neal continue to work toward obtaining her property
27 manager license.

28 1.4 According to the Independent Contractor's Agreement, O'Neal received 70% of
29 the rental income as compensation for her management of rental real estate.

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1 1.5 Additionally, for the investigation, Moody provided a copy of Town and Country
2 Realtors, Inc., "Office Policy," which was incorporated into the Independent Contractor's
3 Agreement. Both the Independent Contractor's Agreement and Office Policy were signed by
4 O'Neal. Neither agreement contained the required delegations of authority for O'Neal to
5 negotiate and sign property management agreements, review and approve reconciliations,
6 review, and approve and accept tenant rental and lease agreements.

7 1.6 During the investigation, Moody told Lewis that O'Neal did all aspects of the
8 property management, including negotiating, signing property management agreements and
9 tenant lease agreements, collecting rent and deposits, conducting tenant relations, advertising,
10 and directing maintenance. Moody also told Lewis that O'Neal negotiated the property
11 management agreements, but Moody would review and sign the property management
12 agreements in addition to O'Neal.

13 **Violation:** By allowing O'Neal, a non-licensed individual at the time, to sign property
14 management agreements, Moody violated ORS 696.301(3) as it incorporates OAR 863-025-
15 0020(6) (4-1-13, 5-15-14 Editions) which states only a property manager may negotiate and
16 sign a property management agreement, except that a principal real estate broker engaging in
17 the management of rental real estate may delegate such authority under OAR 863-025-
18 0015(6) to a real estate licensee who is under the supervision and control for the principal real
19 estate broker.

20 1.7 In his complaint, Salyers expressed his concerns to Moody about O'Neal's
21 professionalism and lack of license to conduct property management. Salyers wrote, "I was
22 informed by Mrs. Moody that she would not perform any property management duties – that
23 she had neither the time nor the resources to do so – that Debra would continue to be the
24 property manager and Mrs. Moody would be an occasional go-between, but could not cut
25 Debra out of the picture entirely."

26 **Violation:** By allowing O'Neal, an unlicensed individual, to engage in activity with on or
27 behalf of Town and Country, without having a proper delegation of authority in place, Moody
28 violated ORS 696.301(3) as it incorporates ORS 696.315(1) (2013 and 2015 Edition) which
29 states, a real estate licensee may not knowingly permit an unlicensed individual to engage in
30 professional real estate activity with or on behalf of the licensee.

1 1.8 O'Neal conducted property management activity on Moody's behalf from an
2 office identified as T&C located at 47763 Hwy. 58, Oakridge, OR. Moody conducted
3 professional real estate activity from her registered main office located at 76616 High Prairie
4 Road, Oakridge, OR. According to the OREA records, the T&C location at 47763 was not
5 registered as a branch office.

6 **Violation:** By allowing O'Neal to conduct management of rental real estate at a location
7 which was not a registered main or branch office, Moody violated ORS 696.301(3) as it
8 incorporates ORS 696.200(5)(a) (2013 and 2015 Editions), which states, a principal broker
9 shall register each branch office with the agency under a registered business name or the real
10 estate licensee's licensed name.

11 1.9 During the investigation, Lewis reviewed O'Neal's business card, lawn sign and
12 phone book advertisements relating to Town and Country's property management business.
13 The advertisements failed to have the full registered business name properly displayed or be
14 identifiable as advertising of a real estate licensee.

15 **Violation:** By advertising or allowing O'Neal to advertise for the property management
16 business, without having the business name, Town & Country Realtors, Inc., properly identified
17 or the name of the principal broker displayed, Moody violated ORS 696.301(3) as it
18 incorporates OAR 863-015-0125(2)(a) (4-1-13 and 5-15-14 Edition), which states advertising
19 must be identifiable as advertising of a real estate licensee, and OAR 863-015-0125(4) (4-1-13
20 and 5-15-14 Edition), which requires the licensed name or registered business name to be
21 prominently displayed, immediately noticeable and conspicuous in all advertising.

22 1.10 In regards to the clients' trust accounts, Moody told Lewis that she gave O'Neal
23 authority for two of three clients' trust accounts, which included security deposit account
24 "Property Management CTA," account ending in #0803 (CTA #0803) and "Property
25 Management CTA," ending in #0811 (CTA #0811). Lewis asked O'Neal if she was responsible
26 for reconciling the clients' trust accounts. O'Neal told Lewis she reconciled the clients' trust
27 accounts using the check register and bank statement. O'Neal said she struggled to
28 understand how to complete a three-way reconciliation, and had reviewed the requirements in
29 her pre-licensing study materials, but had yet to apply the practice to the reconciliations.

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1 1.11 Lewis requested CTA reconciliations for the month of August 2014 for CTA
2 #0803 and CTA #0811.

3 1.12 The first submittal of the reconciliation documentation for CTA #0811 showed
4 Part I and Part II totals as \$755.88 and Part III was entered as zero. Part IV, the amount of
5 difference was blank. Missing from the reconciliation was the supporting documentation for
6 Part II, ledger totals. The reconciliation form was signed and dated, September 29, 2014, by
7 Moody and O'Neal.

8 1.13 A request for supporting documentation and missing information was emailed to
9 O'Neal and Moody on September 30, 2014. OREA received faxed reconciliations on October
10 2, 2014.

11 1.14 The second submittal for the August 2014 reconciliation for CTA #0811 showed
12 Part I and II were entered as \$755.88 and Part III was entered as \$24,301.28. It appeared the
13 balance for CTA #0803 was entered for Part III of CTA #0811. The reconciliation form was
14 dated September 29, 2014, and signed by Moody and O'Neal.

15 1.15 A second request for supporting documentation was emailed to Moody and
16 O'Neal on October 3, 2014. OREA received supporting documentation and corrected single
17 reconciliation forms via fax on October 13, 2014.

18 1.16 The third submittal for the August 2014 reconciliation for CTA #0811 showed Part
19 I, II, and III entered as \$780.53. A review of the bank statement ending August 31, 2014,
20 shows an overdraft fee of \$28.00 charge to CTA #0811. This charge was indicated as a "Total
21 Year-to-date."

22 1.17 Part II, the check register, dated August 1-31, 2014, indicates an insufficient
23 opening balance of -\$1,528.42. A deposit of \$902.00 increased the balance to -\$626.42 on
24 August 1, 2014. Multiple occasions show the balance at the close of a business day was
25 negative, but brought positive once a deposit was made on the following business day. On
26 August 22, 2014, the following disbursements caused consecutive negative balances:

- 27 • Check #2201 for \$366.62 resulted in a balance of -\$283.13.
- 28 • Check #2202 for \$2,123.34 resulted in a balance of -\$2,406.47
- 29 • Check #2204 for \$40.00 caused resulted in a balance of -\$2,446.47

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1 1.18 The ending balance for August 22, 2014, was -\$283.13. On August 24, 2014,
2 the ending balance for the day was -\$2,446.47.

3 1.19 On August 25, 2014, a deposit of \$902.00 brought the balance to -\$1,544.47,
4 however the end of the day balance was -\$1,544.47. On August 28, 2014, a deposit of
5 \$2,525.00 resulted in a positive balance of \$980.53.

6 **Violation:** By failing to complete the required reconciliation or ensure that the
7 reconciliation was properly completed for CTA #0811, Moody violated ORS 696.301(3) as it
8 incorporates OAR 863-025-0025(20) (4-1-13, 5-15-14 Editions), which requires a property
9 manager to reconcile each clients' trust accounts, with the required three components, within
10 30 days of the date of the bank statement.

11 **Violation:** By failing to complete the required reconciliation or ensure that the
12 reconciliation was properly completed for CTA #0803, Moody violated ORS 696.301(3) as it
13 incorporates OAR 863-025-0025(21) (4-1-13, 5-15-14 Editions), which requires a property
14 manager to reconcile each security deposit account, with the required three components,
15 within 30 days of the date of the bank statement.

16 **Violation:** By allowing consecutive negative balances to occur on the check register for
17 CTA #0811 for the dates of August 22, 24, and 25, 2014, Moody violated ORS 696.301(3) as it
18 incorporates OAR 863-025-0040(7) (5-15-14 Edition), which states a record of receipts and
19 disbursements or check register for a clients' trust account may show a negative balance
20 during the course of a day only if the record or receipts and disbursements or check register
21 shows a positive balance at the close of a day.

22 2.

23 2.1 OREA reserves the right to investigate and pursue additional complaints that
24 may be received in the future regarding this licensee.

25 STIPULATION & WAIVER

26 I have read and reviewed the above findings of fact and conclusions of law which have
27 been submitted to me by OREA and further, the order which follows hereafter. I understand
28 that the findings of fact, conclusions of law and this stipulation and waiver embody the full and
29 complete agreement and stipulation between OREA and me. I further understand that if I do
30 not agree with this stipulation I have the right to request a hearing 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, to representation by legal counsel at such a hearing, and to
5 judicial review of this matter.

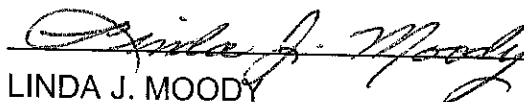
6 I hereby agree and stipulate to the above findings of fact and conclusions of law and
7 understand that the order which follows hereafter may be completed and signed by the Real
8 Estate Commissioner or may be rejected by the Real Estate Commissioner. I understand that,
9 in accordance with the provisions of ORS 696.445(3), notice of this order shall be published in
10 the Oregon Real Estate News Journal.

11 ORDER

12 IT IS HEREBY ORDERED that Moody's principal broker license be, and hereby is,
13 reprimanded.

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15 IT IS SO STIPULATED:

IT IS SO ORDERED:

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17
18 
19 LINDA J. MOODY

20
21 
22 GENE BENTLEY

Real Estate Commissioner

23 Date 6-16-16

Date 6.14.16

24 Date of service: 6-14-2016