

1 REAL ESTATE AGENCY  
2 BEFORE THE REAL ESTATE COMMISSIONER  
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4 In the Matter of the Real Estate License of )  
5 )  
6 PATRICIA ANN REED ) ORDER ON DEFAULT  
7 )  
8 )  
9 \_\_\_\_\_ )

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10 1.1 On June 22, 2016, the Real Estate Commissioner issued, by certified mail, a  
11 Notice of Intent to Reprimand Patricia Ann Reed's (Reed) property manager license. On July  
12 29, 2016, the Real Estate Commissioner issued, by certified mail, an Amended Notice of Intent  
13 to Reprimand Reed's property manager license. The Oregon Real Estate Agency (OREA)  
14 sent the Notice of Intent to Reprimand and the Amended Notice of Intent to Reprimand to  
15 Reed's last known address of record with the OREA. The Notice of Intent and Amended  
16 Notice of Intent were also mailed to Reed by regular first class mail in a handwritten envelope.

17 1.2 For the first Notice of Intent issued, the certified mailing and first class mailing  
18 were sent to Reed at PO Box 5019, Central Point, OR 97502. The certified mailing was  
19 returned to OREA marked, "Return to Sender Unclaimed Unable to Forward." The Notice of  
20 Intent that was mailed via regular first class mail has not returned to OREA.

21 1.3 For the Amended Notice of Intent, the certified mailing and first class mailing  
22 were sent to Reed at PO Box 5019, Central Point, OR 97502. The certified mailing was  
23 returned to OREA marked, "Return to Sender Unclaimed Unable to Forward." The Notice of  
24 Intent that was mailed via regular first class mail has not returned to OREA.

25 1.3 Over twenty (20) days have elapsed since the mailings of the notice and  
26 amended notice issued in this matter and no written request for hearing has been received.

27 1.4 Copies of the entire investigation file are designated as the record for purposes  
28 of default, including any submission from respondent and all information in the administrative  
29 file relating to the mailing of notices and any responses received.

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2.

Based upon the foregoing and upon a review of the above described investigation reports, documents and files, the Real Estate Commissioner finds:

2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is properly served when deposited in the United States mail, registered or certified mail, addressed to the real estate licensee or to any other person having an interest in a proceeding before the Commissioner at the licensee's or other person's last known address of record with OREA.

2.2 Reed's last known address of record with OREA was PO Box 5019, Central Point, OR 97502.

2.3 A certified mailing of the Notice of Intent issued on June 22, 2016, was mailed to Reed at her last known address of record on June 22, 2016. The certified mailing was returned to OREA on July 18, 2016, marked "Return to Sender Unclaimed Unable to Forward."

2.4 A certified mailing of the Amended Notice of Intent issued on July 29, 2016, was mailed to Reed at her last known address of record on July 29, 2016. The certified mailing was returned to OREA on August 22, marked "Return to Sender Unclaimed Unable to Forward."

2.5 The mailing in the handwritten envelope for both the Notice of Intent and Amended Notice of Intent has not been returned to OREA. In accordance with ORS 40.135(1)(q), there is a presumption that the mailing properly addressed and placed with the U.S. Postal Service was delivered. That presumption has not been overcome by any evidence.

2.6 Over twenty (20) days have elapsed since the mailing of the notices and no written request for a hearing has been received.

2.7 Pursuant to ORS 696.775, the expiration of Reed's license does not prohibit the Commissioner from proceeding with further action.

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1 FINDINGS OF FACT  
2 &  
3 CONCLUSIONS OF LAW

4 3.

5 3.1 At all times mentioned herein, Reed was licensed as a property manager doing  
6 business under the registered business name of Compass Property Management, LLC  
7 (Compass). Reed's license expired on March 1, 2016 and has not been renewed as of the  
8 date of this order.

9 3.2 On December 2, 2015, OREA received a complaint from Ronald E. Winters  
10 (Winters) regarding Reed. OREA opened an investigation.

11 3.3 The property management agreement for 1123 N. Modoc Avenue, Medford, OR  
12 97504 (subject property) showed Winters Family Trust as the owner and Compass as the  
13 property manager. Section 6.2 of the property management agreement stated the following,  
14 "Property Manager shall prepare and deliver to the Owner, quarterly accounting and operating  
15 statements and reports..." and "Said statements and report shall be delivered to the Owner by  
16 the 20<sup>th</sup> day of the month following the end of the reported quarter..."

17 3.4 Included in Winters' complaint were multiple emails from Winters to Reed  
18 regarding late owner draws, and requests for financial information.

19 3.5 On December 10, 2015, OREA Investigator/Auditor Peter Bale (Bale) spoke with  
20 Winters. Winters said he liked Reed, but he thought there was no reason he should not receive  
21 his owner draws. He said they had replaced a refrigerator, but he thought that he may have  
22 paid for it himself. Winters stated the Compass website, which contained owner statement  
23 information, was not up-to-date (The website allowed owners to sign in and access their  
24 statement for the month).

25 3.6 Reed provided Bale with her October and November 2015 clients' trust account  
26 reconciliations for the accounts regarding Winter's property, which appeared to balance.

27 3.7 On December 17, 2015, Bale interviewed Reed. Reed said the subject property  
28 had been vacant for 6 weeks in November and December 2014. Reed provided  
29 documentation to OREA which supported her assertion that the subject property had been  
30 vacant at the end of 2014.

1           3.8     Reed provided a spreadsheet to Bale which indicated there were no owner draws  
2 paid in July 2015 or August 2015.

3           3.9     Reed said in June 2015 she had to buy a new fridge for the subject property and  
4 do fence repairs. As of the interview with Bale, Reed said she had not yet charged Winters for  
5 the costs. She said she had been sick for two weeks in July 2015 so the owner draws were  
6 late. She said she would have two payment runs in December 2015 to bring everything up to  
7 date.

8           3.10    Based on Reed's spreadsheet, it appeared the owner draws due (for the months  
9 of July and August 2015 minus June repair costs) were paid in December 2015 to make  
10 everything current. On January 8, 2016, Winters wrote to Bale confirming he had received an  
11 owner draw on December 15, 2015. Additionally, in December 2015, Reed charged Winters  
12 with "maintenance," costs of \$788.25. This charge included a refrigerator replacement and  
13 fence repair, supplied and carried out in June 2015.

14          3.11    The records indicated that the rent received had been accounted for and was  
15 eventually paid to Winters.

16           **Violation:** By failing to make owner draws for the months of July and August 2015 until  
17 December 2015, Reed violated, ORS 696.890(4)(c)(d), and (e) (2015 Edition) which states, a  
18 real estate property manager owes the property owner the following affirmative duties: (c) to  
19 exercise reasonable care a diligence, (d) to account in a timely manner for all funds received  
20 from or on behalf of the owner, and (e) to account in a fiduciary manner in all matters relating  
21 to trust funds. Reed's conduct is grounds for discipline under ORS 696.301(12) and (15)  
22 (2015 Edition)

23           **Violation:** By failing to update Mr. Winters' owner's ledger until December 2015, for  
24 maintenance costs of \$788.25 incurred on June 2015, Reed violated ORS 696.890(4)(c), (d),  
25 and (e) (2015 Edition) which states, a real estate property managers owes the property owner  
26 the following affirmative duties: (c) to exercise reasonable care a diligence, (d) to account in a  
27 timely manner for all funds received from or on behalf of the owner, and (e) to account in a  
28 fiduciary manner in all matters relating to trust funds. Reed's conduct is grounds for discipline  
29 under ORS 696.301(12) and (15) (2015 Edition).

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ORDER

IT IS HEREBY ORDERED that Reed's property manager license be, and hereby is, reprimanded.

Dated this 14<sup>th</sup> day of NOVEMBER, 2016.

OREGON REAL ESTATE AGENCY

  
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GENE BENTLEY  
Real Estate Commissioner

Date of Service: 11/14/2016

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this order. Judicial review is pursuant to the provisions of ORS 183.482.