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REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of
NICKOLAS SHIVERS } STIPULATED FINAL ORDER

The Real Estate Agency (OREA) and Nickolas Shivers (Shivers) do hereby agree and stipulate to the following:

FINDINGS OF FACT
&
CONCLUSIONS OF LAW.

1.

1.1 At all times mentioned herein, Shivers was licensed as a principal broker with Keller Williams Realty, Portland Central. Shivers was the principal broker of WestOne Properties Group operating under Keller Williams Realty, Portland Central.

1.2 On August 7, 2015, OREA Commissioner Gene Bentley (Bentley) observed a sign advertising WestOne Properties Group, on a lot located on the corner of Jefferson Parkway and Cervantes in Lake Oswego, Oregon. On August 13, 2015, Bentley emailed the pictures to OREA Regulations Manager, Selina Barnes (Barnes). Included on the sign was the WestOne Properties Group name and logo, telephone number for WestOne Properties Group, and a link to Shivers' website. The sign did not identify Shivers and WestOne Properties Group as being associated with the registered business name, Keller Williams Realty, Portland Central. The WestOne Properties Group is not registered with OREA as a registered business name.

Violation: By allowing a directional sign to be placed in public advertising WestOne Property Group, without identifying the registered business name Keller Williams Realty, Portland Central, Shivers violated ORS 696.301(3) as it incorporates OAR 863-015-0125(2)(b)

1 (5-5-2014 Edition), which states advertising must be truthful and not deceptive or misleading.
2 Additionally, Shivers violated OAR 863-015-0125(4) (5-5-2014 Edition), which requires the
3 registered business name to be prominently displayed, immediately noticeable, and
4 conspicuous in all advertising.

5 1.3 Shivers explained he did not put the signs out himself, but instead hired a sign
6 company to handle the task. On January 14, 2016, Shivers stated he had gone to the sign
7 company and removed all of his old signs out of inventory.

8 1.4 A review of Shivers' website, <http://nickshivers.com>, on December 11, 2015,
9 identifies WestOne Properties as being Keller Williams #1 real estate team. On the website,
10 Shivers failed to state that he is a licensee, licensed in the State of Oregon.

11 **Violation:** By publishing the website, www.nickshivers.com, without stating that he was
12 a licensee, licensed in the State of Oregon, Shivers violated ORS 696.301(3) as it incorporates
13 OAR 863-015-0125(9)(c) (5-5-2014 Edition), which requires for electronic advertising, a
14 statement that the licensee is licensed in the State of Oregon on the first page of the
15 advertisement.

16 1.5 On Shivers' website, all the team members of WestOne Properties Group were
17 listed. The website failed to clearly state which members of the team were Oregon licensees
18 and which were not. Several of the members listed on the team were not licensed in the State
19 of Oregon as real estate licensees.

20 **Violation:** By listing team members on the website, www.nickshivers.com and not
21 clearly stating which members are licensed in the State of Oregon and which ones are not
22 licensed, Shivers violated ORS 696.301(3) as it incorporates OAR 863-015-0125(11)(c) (5-5-
23 2014 Edition), which states for team advertising, if any non-licensed individuals are named in
24 the advertising, the advertising must clearly state which individuals are real estate licensees
25 and which ones are not.

26 1.6 On the www.nickshivers.com website, Niko Rivera is advertised as a real estate
27 broker. Niko Rivera is not licensed in Oregon as a broker.

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1 **Violation:** By listing Niko Rivera, an unlicensed individual as a real estate broker on
2 www.nickshivers.com, Shivers violated ORS 696.301(3) as it incorporates OAR 863-015-
3 0125(2)(b) (5-5-2014 Edition), which states advertising must be truthful and not deceptive or
4 misleading.

5 1.7 On January 5, 2016, a second website advertising WestOne Properties Group,
6 <http://www.westonehomefinders.com>, was found by clicking a link on
7 <http://www.nickshivers.com> to search all homes. The link would take the user to
8 <http://www.westonehomefinders.com> which contained a link to find agents. The link for the
9 agents was <http://www.westonehomefinders.com/agents>. This webpage listed members of the
10 WestOne Properties Group team as "Agents." The list includes Heather Becker, Kevin
11 Strasser, and Niko Rivera, all unlicensed individuals in Oregon.

12 1.8 In an email on January 14, 2016, Shivers stated he had removed the listing of his
13 team members from www.nickshivers.com. A review of www.nickshivers.com on January 15,
14 2016, showed that the list of all the team members for WestOne Properties Group had been
15 removed. A review of www.westonehomefinders.com on January 21, 2016, showed that
16 Heather Becker and Niko Rivera were removed from the list of agents. However, Kevin
17 Strasser was still on the list, and Dillon Triem had been added to the list and both individuals
18 are unlicensed in Oregon.

19 **Violation:** By listing Heather Becker, Kevin Strasser, and Niko Rivera, all unlicensed
20 individuals in Oregon, and later adding Dillon Triem as agents on
21 www.westonehomefinders.com, Shivers violated ORS 696.301(3) as it incorporates OAR 863-
22 015-0125(2)(b) (5-5-2014 Edition), which states advertising must be truthful and not deceptive
23 or misleading.

24 1.9 A copy of the WestOne Properties Group Facebook page, printed on August 13,
25 2015, did not show Shivers' association with Keller Williams anywhere on the webpage.
26 According to Shivers, the cover photo actually showed the Keller Williams registered business
27 name on the lower portion of the sign, but that the picture got cut off. On January 14, 2016,
28 the WestOne Properties Group Facebook page was reviewed again. The cover photo Shivers
29 had referred to shows a WestOne Properties Group sign. At the bottom of the timeline, a
30 complete picture including the Keller Williams logo did appear with the notation that WestOne

1 Properties Group had updated their cover photo on December 16, 2015.

2 **Violation:** By advertising on www.facebook.com under the name WestOne Properties
3 Group and not including the registered business name, Keller Williams Realty, Portland
4 Central, Shivers violated ORS 696.301(3) as it incorporates OAR 863-015-0125(4) (5-5-2014
5 Edition), which requires the registered business name to be prominently displayed,
6 immediately noticeable, and conspicuous in all advertising.

7 1.10 On January 8, 2015, several videos published by Shivers and posted on
8 YouTube were reviewed. In the videos, Shivers identified himself as being with WestOne
9 Properties Group. Shivers did not identify himself as being associated with Keller Williams
10 Realty, Portland Central. Shivers explained that the videos he publishes are posted on his
11 blog, <http://nickshivers.blogspot.com>. Shivers said the homepage for his blog does identify his
12 association with Keller Williams Realty, Portland Central and he never considered that the
13 videos could be accessed through links other than by his blog.

14 **Violation:** By advertising under the name WestOne Properties Group in internet videos
15 without including the registered business name, Keller Williams Realty, Portland Central,
16 Shivers violated ORS 696.301(3) as it incorporates OAR 863-015-0125(2)(b) (4-1-2013 Edition
17 and 5-5-2014 Edition), which states advertising must be truthful and not deceptive or
18 misleading. Additionally, Shivers violated ORS 696.301(3) as it incorporates OAR 863-015-
19 0125(4) (5-5-2014 Edition), which requires the registered business name to be prominently
20 displayed, immediately noticeable, and conspicuous in all advertising.

21 1.11 Shivers has received several administrative actions from OREA in the past. In
22 November 2007, Shivers was issued a civil penalty for conducting professional real estate
23 activity while his license was expired. In January 2010, Shivers received a reprimand. Lastly,
24 in April 2010, Shivers' license was reprimanded again for several violations, including an
25 advertising violation of OAR 863-0185-0125(2)(b), by using the name WestOne Properties
26 LLC, without including the word, "team" or "group, when he was licensed with Keller Williams
27 East Portland.

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2.

2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301. Based on these violations a suspension is appropriate under ORS 696.396(2)(c)(D) According to ORS 696.396, OREA may suspend a real estate license if the material facts establish a violation of a ground for discipline under ORS 696.301 that repeats conduct or an act that is substantially similar to conduct or an act for which the real estate licensee was disciplined previously.

2.2 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.

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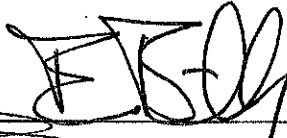
ORDER

IT IS HEREBY ORDERED that Shivers' principal broker license be suspended for 60 days. The suspension will be effective starting on December 1, 2016, and run consecutively through January 30, 2017.

IT IS SO STIPULATED:

IT IS SO ORDERED:





NICKOLAS SHIVERS

GENE BENTLEY

Real Estate Commissioner

Date 4-11-16

Date 4-18-16

Date of Service: 4-18-2016

1
2 REAL ESTATE AGENCY
3 BEFORE THE REAL ESTATE COMMISSIONER

4 In the Matter of the Real Estate License of

5
6 NICKOLAS SHIVERS

7 ADDENDUM CORRECTING STIPULATED
8 FINAL ORDER

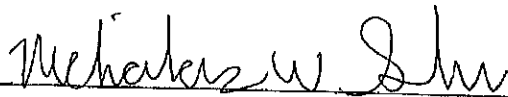
9
10 This document is to correct the end date of the 60 day license suspension for Nicholas
11 Shivers, as stated in the April 2016 Stipulated Final Order.

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13 The Commissioner and Shivers stipulate that the April 2016 Stipulated Final Order imposing a
14 60 day suspension is corrected as follows:

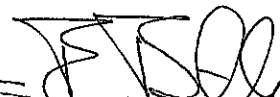
15
16 Suspension begins on December 1, 2016, and runs consecutively through January 29, 2017.
17 The last day of the 60 day license suspension will be January 29, 2017.

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19 IT IS STIPULATED:

IT IS SO ORDERED:

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23 NICKOLAS SHIVERS



24 GENE BENTLEY

Real Estate Commissioner

25 Date 12-1-16

26 Date 12-1-16

27 Date of Service: 12/1/2016