

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER

3
4 In the Matter of the Real Estate License of

5
6 RICHARD BRIAN KAUL

7
8 } STIPULATED FINAL ORDER
9

10 The Real Estate Agency (Agency) and Richard Brian Kaul (Kaul) 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, Kaul was licensed as a property manager.

17 1.2 Between October 2012 and February 14, 2017, Kaul conducted property
18 management activity under the business name Asset Services Group, LLC, which was not
19 registered with the Agency.

20 **(1) Violation:** By conducting property management activity under the name Asset Services
21 Group LLC, which was not a registered business name with the Agency, Kaul violated ORS
22 696.301(3) as it incorporates ORS 696.026(6) (2011, 2013 and 2015 Editions) which states a
23 principal real estate broker or licensed real estate property manager may conduct professional
24 real estate activity only under: (a) the name under which the principal broker or property
25 manager's license was issued; or (b) a registered business name. Additionally, Kaul violated
26 ORS 696.301(3) as it incorporates OAR 863-024-0095(1) (9-14-12, 4-1-13, 5-15-14 & 11-15-
27 16 Edition) which states in part, before conducting business in a name other than the
28 licensee's legal name, the property manager must register the business name with the
29 Agency.

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1 1.3 Agency records show Kaul became licensed on December 15, 2010. Kaul did
2 not have any clients' trust accounts prior to January 1, 2012.

3 **(2) Violation:** By failing to open a clients' trust account until January 1, 2012, Kaul violated
4 ORS 696.301(3) as it incorporates ORS 696.241(2) (2009 and 2011 Editions) which requires a
5 property manager to open and maintain in this state at least one bank account designated as a
6 clients' trust account under ORS 696.245. Additionally, Kaul violated ORS 696.301(3) as it
7 incorporates OAR 863-025-0025(2) (6-15-10, 4-15-11, 9-1-11 Editions) which requires a
8 property manager to open and maintain at least one clients' trust account.

9 1.4 Kaul opened clients' trust account ending in #3330 on January 1, 2012, but did
10 not notify the Agency of the account until September 1, 2016.

11 **(3) Violation:** By failing to timely notify the Agency when the clients' trust account ending in
12 #3330 was opened, Kaul violated ORS 696.301(3) as it incorporates ORS 696.241(4) (2011,
13 2013 and 2015 Editions), which requires a property manager to notify the Agency within 10
14 business days after the date a clients' trust account is opened.

15 1.5 From approximately January 1, 2012 to September 1, 2016, Kaul held both
16 owner funds and security deposits funds in the clients' trust account ending in #3330.

17 **(4) Violation:** By combining owner funds and security deposit funds in the clients' trust
18 account ending in #3330 Kaul violated ORS 696.301(3) as it incorporates OAR 863-025-
19 0025(4) (9-1-11, 9-14-12, 4-1-13 and 5-15-14 Editions) which requires a property manager
20 who receives security deposits on behalf of an owner must open and maintain a security
21 deposits account separate from the property manager's clients' trust account. Additionally,
22 Kaul violated ORS 696.301(3) as it incorporates OAR 863-025-0030(1) (9-1-11, 9-14-12, 4-1-
23 13 and 5-15-14 Editions) which states in part except as provided in section (3) of this rule, all
24 tenants and security deposits received by a property manager must be deposited and
25 maintained in a security deposits account.

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1 1.6 From approximately January 1, 2012 to August 2016, Kaul kept funds for his
2 personally owned rental properties in the clients' trust account ending #3330 along with funds
3 belonging to other owners and tenants.

4 **(5) Violation:** By keeping funds from personally owned property in a clients' trust account
5 ending in #3330, where other owner and tenant funds were held, Kaul violated ORS
6 696.301(3) as it incorporates ORS 696.241(6) (2011 Edition), which states except for earned
7 interest, only trust funds may be held by a licensed real estate property manager in a clients'
8 trust account, and ORS 696.241(7) (2013 and 2015 Editions) which states except for earned
9 interest on a clients' trust account, a licensed property manager may not commingle any other
10 funds with the trust funds held in a clients' trust account. Additionally, Kaul violated ORS
11 696.301 as it incorporates OAR 863-025-0065(3)(9-1-11, 9-14-12, 4-1-13 and 5-15-14
12 Editions) which states a property manager may not deposit any funds received on behalf of an
13 owner in the property manager's personal account or commingle any such funds received with
14 personal funds of the property manager.

15 1.7 On March 13, 2017, the Agency requested Kaul's most recent clients' trust
16 account reconciliations for clients' trust accounts ending in #1190 and #3330 (security deposits
17 account) due by March 20, 2017. Kaul did not provide the requested documents by the due
18 date.

19 **(6) Violation:** By failing to provide the requested records by the due date Kaul violated
20 ORS 696.301(3) as it incorporates ORS 696.280(3) (2015 Edition) which requires records
21 maintained under this section must at all times be open for inspection by the Real Estate
22 Commissioner or the commissioner's authorized representative. Kaul also violated ORS
23 696.301(3) as it incorporates OAR 863-025-0035(2)(a) (11-15-16 Edition) which states: (2) a
24 property manager must produce records required under section 1 of this rule for inspection by
25 the Agency as follows: (a) When the Agency makes a request for production of property
26 management records, the property manager must provide such records within no less than five
27 banking days.

28 1.8 Kaul failed to complete proper three way reconciliations from approximately
29 October 2012 until May 2017, on both his clients' trust account (ending in #1190) and security
30 deposit account (ending in #3330).

1 **(7) Violation:** By failing to prepare monthly three way reconciliations for clients' trust
2 accounts ending in #1190 and #3330 Kaul violated ORS 696.301(3) as it incorporates OAR
3 863-025-0025(20) and (21) (9-1-11, 9-14-12, , 4-1-13, 5-15-14 and 11-15-16 Editions), which
4 requires a property manager to complete a monthly reconciliation with the required three
5 components within 30 days of the bank statement date.

6 1.9 Agency records showed from January 1, 2012 to March 23, 2017, Kaul's clients'
7 trust accounts ending in #3330 (security deposits account) was named as "Asset Services
8 Group, LLC." A bank statement for the month of March 2017, showed the account name as
9 "Asset Services Group LLC Client Trust Account."

10 1.10 Agency records showed from September 1, 2016 to March 23, 2017, clients' trust
11 account in #1190 was named, "Asset Services Group, LLC." A bank statement for the month of
12 March 2017 showed the account name as "Asset Services Group LLC."

13 **(8) Violation:** By failing to properly name both the clients' trust account ending in #1190
14 and security deposits account ending in #3330 Kaul violated ORS 696.301(3) as it
15 incorporates OAR 863-025-0025(2) (5-15-14 and 11-15-16 Edition) and OAR 863-025-0025(4)
16 (9-1-11, 4-15-11, 9-14-12, 4-1-13, 5-15-14 and 11-15-16 Editions). Per OAR 863-025-0025(2)
17 a property manager must open and maintain at least one clients' trust account as defined in
18 OAR 863-025-0010. Per OAR 863-025-0025(4), except as provided in section (7) of this rule,
19 a property manager who receives security deposits on behalf of an owner must open and
20 maintain a security deposits account, as defined in OAR 863-025-0010, that is separate from
21 the property manager's clients' trust account. Clients' trust account is defined per OAR 863-
22 025-0010(4) which requires a clients' trust account to be a federally insured bank account
23 labeled as "Clients' Trust Account" on all bank records and checks. Security deposits account
24 is defined per OAR 863-025-0010(15) (9-1-11, 4-15-11, 9-14-12, 4-1-13 Edition), and (16) (5-
25 15-14 and 11-15-16 Editions) which requires security deposits account to be federally insured
26 and labeled as "Clients' Trust Account- Security Deposits," on all bank records and checks.

27 1.11 A review of Kaul's owner ledgers showed the following details lacking between
28 October 2012 and May 2017: owner's name, identity of the person tendering the funds and a
29 balance after each recorded entry.

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1 **(9) Violation:** By failing to have all of the required detail in the owners ledgers, Kaul
2 violated ORS 696.301(3) as it incorporates OAR 863-025-0055(3)(a)(b)(B)(d) (9-1-11, 9-14-12,
3 4-1-13, 5-15-14 and 11-15-16), which states (3) all owner ledgers must include the following:
4 (a) the owner's name and identifying code;(b) for each deposit of funds: (B) the purpose of the
5 funds and identity of the person who tendered the funds; (d) the balance after each recorded
6 entry.

7 1.12 A review of Kaul's check register/record of receipts and disbursements showed
8 the following details lacking between October 2012 to May 2017: the identity of who tendered
9 the funds and the account balance after each entry.

10 **(10) Violation:** By failing to have all the required detail in the check register/record of
11 receipts and disbursements, Kaul violated ORS 696.301(3) as it incorporates OAR 863-025-
12 0040(2)(a)(C)and (e) (9-1-11, 9-14-12, 4-1-13, 5-15-14, 11-15-16 Editions), which requires (2)
13 a record of receipts and disbursements or check register must contain at least the following
14 information: (a) for each receipt of funds: (C) the purpose of the funds and the identity of the
15 person who tendered the funds; (e) the account balance after each entry

16 1.13 From approximately October 2012 to May 2017, Kaul failed to keep tenant
17 ledgers as required

18 **(11) Violation:** By failing to keep proper tenant ledgers, Kaul violated ORS 696.301(3) as it
19 incorporates OAR 863-025-0050(1) (9-1-11, 9-14-12, 4-1-13, 5-15-14, and 11-15-16), which
20 requires a property manager to prepare and maintain at least one tenant's ledger for each
21 tenant or individual for whom the property manager has received any funds under a property
22 management agreement.

23 1.14 From approximately October 2012 to May 2017, the Asset Services Group, LLC
24 website did not contain verbiage that Kaul was licensed in the State of Oregon.

25 **(12) Violation:** By failing to indicate on his website that he was licensed in Oregon, Kaul
26 violated ORS 696.301(3) as it incorporates OAR 863-015-0125(9)(b)(C) (9-1-11, 9-14-12, 4-1-
27 13, 5-15-14 and 11-15-16 Editions) which requires: (9) advertising in electronic media and by
28 electronic communication, including but not limited to the Internet, web pages, E-mail, E-mail
29 discussion groups, blogs, and bulletin boards is subject to the following requirements: (b)
30 advertising by a licensee must include on its first page: (C) a statement that the licensee is
licensed in the State of Oregon.

1 1.15 From approximately October 2012 to May 2017, there was no sign at the main
2 office for Asset Services Group, LLC designating it as such.

3 **(13) Violation:** By failing to have a sign at the main office, Kaul violated ORS 696.301(3) as
4 it incorporates ORS 696.200(1)(c) (2011, 2013, and 2015 Editions) which requires a property
5 manager to designate the main office by a sign that contains the name under which the real
6 estate licensee conducts professional real estate activity.

7 1.16 All of the above demonstrates incompetence in performing acts for which Kaul is
8 required to hold a license.

9 **(14) Violation:** ORS 696.301(12) (2011, 2013 and 2015 Editions) which states a real estate
10 license can be disciplined if the licensee demonstrated incompetence in performing any act for
11 which the licensee is required to hold a license.

12 2.

13 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.

14 2.2 The Agency reserves the right to investigate and pursue additional complaints
15 that may be received in the future regarding this licensee.

16 3.

17 **STIPULATION & WAIVER**

18 I have read and reviewed the above findings of fact and conclusions of law which have
19 been submitted to me by the Agency and further, the order which follows hereafter. I
20 understand that the findings of fact, conclusions of law and this stipulation and waiver embody
21 the full and complete agreement and stipulation between the Agency and me. I further
22 understand that if I do not agree with this stipulation I have the right to request a hearing on
23 this matter and to be represented by legal counsel at such a hearing. Hearings are conducted
24 in accordance with the procedures set forth in ORS Chapter 183 and in accordance with the
25 Rules of Practice and Procedure adopted by the Attorney General of the State of Oregon. I
26 freely and voluntarily waive my rights to a hearing, to representation by legal counsel at such a
27 hearing, and to judicial review of this matter.

28 I hereby agree and stipulate to the above findings of fact and conclusions of law and
29 understand that the order which follows hereafter may be completed and signed by the Real
30 Estate Commissioner or may be rejected by the Real Estate Commissioner. I understand that,

1 in accordance with the provisions of ORS 696.445(3), notice of this order shall be published in
2 the Oregon Real Estate News Journal.

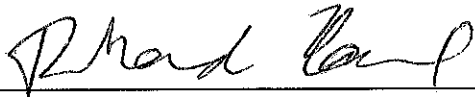
3 ORDER

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

6 IT IS FURTHER ORDERED that Kaul complete the 27-hour Property Manager
7 Advanced Practices course, (detailed in OAR 863-022-0022), within four months from the
8 effective date of this order. Kaul must submit a certificate to the Agency showing completion of
9 the 27- hour Property Manager Advanced Practice Course. This certificate must be submitted
10 to the Agency no later than 10 days after the education has been completed.

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14 IT IS SO STIPULATED:

IT IS SO ORDERED:

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18 RICHARD BRIAN KAUL

DEAN OWENS

Acting Real Estate Commissioner

19
20 Date 8-10-2018

Date 8-15-2018

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22 Date of Service: 8/15/2018