

1 1.7 On August 29, 2016, a residential appraisal was completed with a subject to
2 clause in it. The property was required to have a heat source, carbon monoxide and smoke
3 detectors installed.

4 1.8 Bowles informed Julia Nead that FHA guidelines would not allow for a loan on a
5 property without a heat source.

6 1.9 On September 7, 2016, Leach emailed Jim Ferris, at Red's Electric, a request for
7 a bid to install heaters on the subject property.

8 1.10 On September 7, 2016, Leach emailed Julia Nead, stating they had run up
9 against FHA requirements and they needed to install baseboards. Leach stated she needed to
10 confirm that Julia Nead could pay \$3,300.00 to Red's Electric and that he was a good friend of
11 hers and was moving his schedule as a favor to her.

12 1.11 On September 9, 2016, Red's Electric provided an estimate and details regarding
13 the heat source installation.

14 1.12 On September 9, 2016, Leach emailed Julia Nead and let her know she had met
15 with Red's at the subject property that morning, and they decided wall heaters should be
16 installed instead of baseboard heaters for the same price.

17 1.13 On September 12, 2016, Red's Electric completed the heat source installation
18 and Leach signed off on the work.

19 1.14 Leach provided access to the subject property for Red's Electric to install the
20 heat source, and allowed Ben Nead access to install carbon monoxide and smoke alarms in
21 the house.

22 1.15 During the Agency's investigation, Leach was asked if she had read and signed
23 the carbon monoxide and smoke detector addendum stating that if the detectors need to be
24 installed, they must be installed after closing. Leach said she knew the policy regarding the
25 carbon monoxide detector and smoke alarm being installed, but let the buyers install them
26 anyhow. Leach said she advised her clients not to do it, but they insisted and said it was a risk
27 they were willing to take.

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1 1.16 Regarding the heat source Leach told Agency Investigator/Auditor Lindsey
2 Nunes (Nunes) that she was aware of the as is condition when purchasing a HUD home. She
3 said the mortgage broker had said the heat source had to be installed or the loan would not go
4 through.

5 1.17 Needs were unable to close on the subject property and the transaction failed.

6 **Violation:** By allowing Ben Nead, the potential buyer access to the HUD owned
7 property to install carbon monoxide and smoke alarms in violation of the HUD contract, Leach
8 violated ORS 696.301(12) and (14) (2015 Edition) which states a licensee's real estate license
9 may be disciplined if they have: (12) Demonstrated incompetence or untrustworthiness in
10 performing any act for which the licensee is required to hold a license, (14) Committed an act
11 of fraud or engaged in dishonest conduct substantially related to the fitness of the real estate
12 licensee to conduct professional real estate activity, without regard to whether the act or
13 conduct occurred in the course of professional real estate activity.

14 Additionally, Leach violated ORS 696.810(3)(a) and (c) (2015 Edition), which states (3)
15 A buyer's agent owes the buyer involved in a real estate transaction the following affirmative
16 duties: (a) To exercise reasonable care and diligence; (c) To be loyal to the buyer by not taking
17 action that is adverse or detrimental to the buyer's interest in a transaction. Leach's conduct is
18 grounds for discipline under ORS 696.301(12).

19 **Violation:** By orchestrating the heat source installation with Red's Electric for the
20 subject property, in violation of the HUD contract conditions, costing the buyers \$3,300 when
21 the transaction failed, Leach violated ORS 696.301(1), (12), (14), and (15) (2015 Edition). A
22 licensee's real estate license may be disciplined if they have: (1) Created a reasonable
23 probability of damage or injury to a person by making one or more material misrepresentations
24 or false promises in a matter related to professional real estate activity, (12) Demonstrated
25 incompetence or untrustworthiness in performing any act for which the licensee is required to
26 hold a license, (14) Committed an act of fraud or engaged in dishonest conduct substantially
27 related to the fitness of the real estate licensee to conduct professional real estate activity,
28 without regard to whether the act or conduct occurred in the course of professional real estate
29 activity, (15) Engaged in any conduct that is below the standard of care for the practice of
30 professional real estate activity in Oregon as established by the community of individuals
engaged in the practice of professional real estate activity in Oregon.

ORDER

IT IS HEREBY ORDERED that Leach's broker license be, and hereby is reprimanded.

IT IS FURTHER ORDERED that Leach complete the 27-hour Broker Advanced Practices course, (detailed in OAR 863-022-0020 1-1-2018 Edition), within four months from the effective date of this order. Leach must submit a certificate to the Agency showing completion of the 27-hour Broker Advanced Practices Course. This certificate must be submitted to the Agency no later than 10 days after the education has been completed. Leach may not use the 27-hour Broker Advanced Practices Course toward her continuing education requirement for license renewal.

IT IS SO STIPULATED:

IT IS SO ORDERED:

Jane Leach
JANE LEACH

Dean Owens

DEAN OWENS
Acting Real Estate Commissioner

Date 12/4/18

Date 12-14-2018

Date of Service: 12-14-2018