1 of 5 - Stipulated Final Order- Jane Leach

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- 1.7 On August 29, 2016, a residential appraisal was completed with a subject to clause in it. The property was required to have a heat source, carbon monoxide and smoke detectors installed.
- 1.8 Bowles informed Julia Nead that FHA guidelines would not allow for a loan on a property without a heat source.
- 1.9 On September 7, 2016, Leach emailed Jim Ferris, at Red's Electric, a request for a bid to install heaters on the subject property.
- 1.10 On September 7, 2016, Leach emailed Julia Nead, stating they had run up against FHA requirements and they needed to install baseboards. Leach stated she needed to confirm that Julia Nead could pay \$3,300.00 to Red's Electric and that he was a good friend of hers and was moving his schedule as a favor to her.
- 1.11 On September 9, 2016, Red's Electric provided an estimate and details regarding the heat source installation.
- 1.12 On September 9, 2016, Leach emailed Julia Nead and let her know she had met with Red's at the subject property that morning, and they decided wall heaters should be installed instead of baseboard heaters for the same price.
- 1.13 On September 12, 2016, Red's Electric completed the heat source installation and Leach signed off on the work.
- 1.14 Leach provided access to the subject property for Red's Electric to install the heat source, and allowed Ben Nead access to install carbon monoxide and smoke alarms in the house.
- 1.15 During the Agency's investigation, Leach was asked if she had read and signed the carbon monoxide and smoke detector addendum stating that if the detectors need to be installed, they must be installed after closing. Leach said she knew the policy regarding the carbon monoxide detector and smoke alarm being installed, but let the buyers install them anyhow. Leach said she advised her clients not to do it, but they insisted and said it was a risk they were willing to take.

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

Neads were unable to close on the subject property and the transaction failed.

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

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

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

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Additionally, Leach violated ORS 696.810(2)(a), (3)(a) and (c). Per ORS 696.810(2):, A buyer's agent owes the buyer, other principals and principal's agents involved in a real estate transaction the following affirmative duties: (a) To deal honestly and in good faith. Per ORS 696.810(3): A buyer's agent owes the buyer involved in a real estate transaction the following affirmative duties: (a) To exercise reasonable care and diligence; (c) To be loyal to the buyer by not taking action that is adverse or detrimental to the buyer's interest in a transaction. Leach's conduct is grounds for discipline under ORS 696.301(12).

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- 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.
- 2.3 The Agency reserves the right to investigate and pursue additional complaints that may be received in the future regarding this licensee.
- 2.4 In establishing the violations alleged above, OREA may rely on one or more of the definitions contained in ORS 696.010.

STIPULATION & WAIVER

I have read and reviewed the above findings of fact and conclusions of law which have been submitted to me by the Agency 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 the Agency 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.

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 S	D ST	IPUL	_ATE	ΞD
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IT IS SO ORDERED:

DEAN OWENS

Acting Real Estate Commissioner

Date 12 - 14 - 2018

Date of Service: 12-14-2018