

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of

5
6 SIMON G. SMITH

7 } STIPULATED FINAL ORDER
8
9

10 The Oregon Real Estate Agency (Agency) and Simon G. Smith (Smith) do hereby agree
11 and stipulate to the following:

12 FINDINGS OF FACT
13 &
14 CONCLUSIONS OF LAW

15 1.

16 1.1 Smith was issued a principal broker license on May 30, 2014, prior to that he
17 held a broker license.

18 1.2 On August 4, 2016, the Agency received a complaint regarding Smith from
19 Smith's former brother-in-law Derek L. Harrison (D. Harrison). The complaint related to the
20 purchase of Lot 18 of the Diamond Ridge subdivision in Coburg, Oregon (Lot 18).

21 1.3 Lori Smith and Smith were a married couple at the time of the purchase of Lot
22 18.

23 1.4 Wade Harrison (W. Harrison) and Elaine Harrison (E. Harrison) are the parents
24 of Lori Smith and D. Harrison. All four are members of Harrison Investments, Inc.

25 1.5 The sales agreement for Lot 18 identified the purchaser as Harrison Investments.
26 The signatures and initials of L. Wade Harrison appear on the purchase agreement dated July
27 18, and July 19 of 2005, and on other documents related to the transaction. The complaint
28 alleged the signature and initials of L. Wade Harrison were forged.

29 1.6 Lori Smith filed for divorce from Smith on July 28, 2015, and through the divorce
30 proceeding the 2005 transaction for Lot 18 was closely reviewed.

1 1.7 On February 1, 2016, W. Harrison hired James A. Green (Green) a Forensic
2 Document Examiner. Green provided a report dated March 6, 2016, wherein he examined the
3 signature and initial specimens on the sales agreement for Lot 18, and other related
4 documents against known signature and initial samples provided by W. Harrison.

5 1.8 Green's report reviewed some specific portions on the sales agreement,
6 addendums, and related documents, and indicated that for those sections he reviewed, W.
7 Harrison had not been the one signing or initialing.

8 1.9 Smith said during the Agency investigation, regarding the purchase of Lot 18,
9 that W. Harrison wasn't available, nor did he want to deal with it, which he said was standard
10 and typical and wanted his daughter, L. Smith, to sign for the transaction. At the time the
11 signatures were put on the sales agreement and related transaction documents, Smith was
12 aware they were not the signatures of W. Harrison.

13 **(1) Violation:** By submitting, or causing the sales agreement containing forged buyer
14 signatures and initials to be submitted to escrow, Smith violated ORS 696.301(3) as it
15 incorporates ORS 696.810(3)(a) (2005 Edition), which states a buyer's agent owes the buyer
16 involved in a real estate transaction the following affirmative duties: (a) to exercise reasonable
17 care and diligence. Additionally, Smith violated ORS 696.301(12), which states a licensee's
18 real estate license may be disciplined if they have demonstrated incompetence or
19 untrustworthiness in performing any act for which the real estate licensee is required to hold a
20 license.

21 1.10 On June 14, 2016, Judge Charles D. Carlson signed a Consolidated Findings of
22 Fact and Conclusions of Law for Case #15CV31780 which combined the earlier divorce case
23 with a civil matter over the alleged forgeries involving the purchase and deeding of Lot 18.

24 1.11 On September 26, 2016, the General Judgment was signed by the judge. The
25 judge ruled against Smith and determined that Smith breached his fiduciary duties.

26 1.12 The case is under appeal.

27 1.13 Smith failed to report the adverse decision to the Agency. He thought he didn't
28 need to report it because it was under appeal.

29 ///

30 ///

1 **(2) Violation:** By failing to report the adverse decision to the Agency within 20 calendar
2 days after the decision, Smith violated ORS 696.301(3) as it incorporates OAR 863-015-
3 0175(1)(b), (3) and (4) (5-15-2014 Edition) which (1) requires a real estate licensee to notify
4 the commissioner of the following: (b) Any adverse decision or judgment resulting from any
5 civil or criminal suit or action or arbitration proceeding or any administrative or Oregon State
6 Bar proceeding related to the licensee in which the licensee was named as a party and against
7 whom allegations concerning any business conduct or professional real estate activity is
8 asserted. (3) The notification by this rule must be in writing and must include a brief description
9 of the circumstances involved, the names of the parties, and a copy of the adverse decision,
10 judgment, or award and, in the case of a criminal convicted, a copy of the sentencing order. If
11 any such judgment, award, or decision is appealed, each subsequent appellate court decision
12 is subject to the rule's notification requirements. (4) The notification required by this rule must
13 be made within twenty 20 calendar days after receiving written notification of an adverse
14 judgment, award, or decision described in this rule. Notification must be made under this rule
15 whether or not the decision is appealed.

16 2.

17 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.

18 2.2 The Agency reserves the right to investigate and pursue additional complaints
19 that may be received in the future regarding this licensee.

20 2.3 In establishing the violations alleged above, OREA may rely on one or more of
21 the definitions contained in ORS 696.010.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

29 ///

30 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

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.

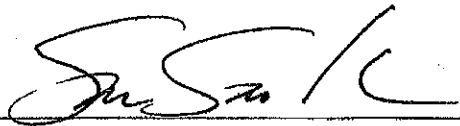
I hereby agree and stipulate to the above findings of fact and conclusions of law and understand that the order which follows hereafter may be completed and signed by the Real Estate Commissioner or may be rejected by the Real Estate Commissioner. I understand that, in accordance with the provisions 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 Smith's principal broker license be, and hereby is reprimanded.

IT IS SO STIPULATED:

IT IS SO ORDERED:





SIMON G. SMITH

DEAN OWENS

Acting Real Estate Commissioner

Date 11-16-18

Date 11-27-18

Date of Service: 11/29/2018