

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER

3
4 In the Matter of the Real Estate License of

5
6 JOHN DOUGLAS TURNER

7)
8 STIPULATED FINAL ORDER
9

10 The Oregon Real Estate Agency (Agency) and John Douglas Turner (Turner) do hereby
11 agree and stipulate to the following:

12 FINDINGS OF FACT

13 &

14 CONCLUSIONS OF LAW

15 1.

16 1.1 At all times mentioned herein, Turner was licensed as a principal broker doing
17 business under the registered business name of Century 21 Turner Properties.

18 1.2 On February 22, 2018, the Agency sent a notice to Century 21 Turner Properties,
19 of a mandatory mail in clients' trust account audit requesting the January 2018 reconciliation
20 for security deposit account #9219.

21 1.3 In Turner's response, Turner explained that the security deposits account had
22 been out of balance and that a \$50,000 deposit was made in March to make the account
23 whole. The Agency opened an investigation on March 27, 2018.

24 1.4 December 2017 security deposit reconciliation for account ending in #9219,
25 indicated the account was short by \$20,000. There was \$262,824.67 reported in the bank
26 account, yet supporting documentation showed there should be \$283,824.67.

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1 **(1) Violation:** By having a shortage of approximately \$20,000 showing on the December
2 2017 reconciliation for security deposits account ending in #9219, Turner violated ORS
3 696.301(3) as it incorporates OAR 863-025-0025(21)(b) (11-15-16 Edition) which requires a
4 property manager to reconcile each security deposits account within 30 calendar days of the
5 bank statement date, and the balances of each component must be equal and reconciled with
6 each other.

7 1.5 January 2018 security deposit reconciliation for account ending in #9219
8 indicated the account was short by \$40,000. There was \$243,118.59 reported in the bank
9 account, yet supporting documentation showed there should be \$283,118.59.

10 **(2) Violation:** By having a shortage of approximately \$40,000 showing on the January
11 2018 reconciliation for security deposits account ending in #9219, Turner violated ORS
12 696.301(3) as it incorporates OAR 863-025-0028(3)(b) (1-1-2018 Edition) which requires a
13 property manager to reconcile each security deposits account within 30 calendar days of the
14 bank statement date, and the balances of each component must be equal and reconciled with
15 each other.

16 1.6 February 2018 security deposit reconciliation for account ending in #9219
17 indicated the account was short by \$50,000. There was \$247,150.30 reported in the bank
18 account, yet supporting documentation showed there should be \$297,150.30.

19 **(3) Violation:** By having a shortage of approximately \$50,000 showing on the February
20 2018 reconciliation for security deposits account ending in #9219, Turner violated ORS
21 696.301(3) as it incorporates OAR 863-025-0028(3)(b) (1-1-2018 Edition) which requires a
22 property manager to reconcile each security deposits account within 30 calendar days of the
23 bank statement date, and the balances of each component must be equal and reconciled with
24 each other.

25 1.7 March 2018 security deposit reconciliation for account ending in #9219 indicated
26 the account was balanced at \$296,177.30. The bank statement showed a deposit of \$50,000
27 on March 20, 2018, from a personal savings account belonging to Turner.

28 1.8 February 2018 reconciliation for clients' trust account ending in #9201 (owner's
29 funds) was not balanced and the shortage between what was reported in the bank and
30 supporting documentation was \$28,722.17.

1 **(4) Violation:** By having a shortage of approximately \$28,722.17 showing on the February
2 2018 reconciliation for clients' trust account ending in #9201, Turner violated ORS 696.301(3)
3 as it incorporates OAR 863-025-0028(2)(b) (1-1-2018 Edition) which requires a property
4 manager to reconcile each clients' trust account within 30 calendar days of the bank statement
5 date, and the balances of each component must be equal and reconciled with each other.

6 1.9 March 2018 reconciliation for clients' trust account ending in #9201 was not
7 balanced and the shortage between what was reported in the bank and supporting
8 documentation was \$3,363. The bank statement indicated that \$15,000 was transferred from
9 Turner Properties' business account on March 29, 2018 into clients' trust account ending
10 #9201. Another deposit was made that day for \$10,000.

11 **(5) Violation:** By having a shortage of approximately \$3,363 showing on the March 2018
12 reconciliation for clients' trust account ending in #9201, Turner violated ORS 696.301(3) as it
13 incorporates OAR 863-025-0028(2)(b) (1-1-2018 Edition) which requires a property manager
14 to reconcile each clients' trust account within 30 calendar days of the bank statement date, and
15 the balances of each component must be equal and reconciled with each other.

16 1.10 During his interview with Agency Investigator/Auditor Frances Hlawatsch, Turner
17 admitted the shortage in the security deposits account (#9219) and clients' trust account
18 (#9201) was a result of him using the funds to pay business expenses and debts. He
19 mentioned he had an office move requiring a construction build-out for his Portland office
20 costing approximately \$30,000. Simultaneously, Turner began the acquisition of a Century 21
21 office in Longview, Washington, which did not make any money for several months. The
22 shortfalls were what prompted him to turn to the trust accounts for funding.

23 1.11 Turner used \$50,000 from the security deposit account (#9219) between
24 December 2017 and February 2018. In March 2018, Turner deposited \$50,000 from a
25 personal savings account into the security deposit account to replace the funds he had
26 removed.

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1 1.12 According to Turner, he used \$24,804.40 from the clients' trust account (#9201)
2 in May 2017. He continued to access funds from this account and found it was short by about
3 \$34,000 from July 2017 through September 2017. By October 2017, the deficit had reached
4 approximately \$40,000 and remained so through November 2017. In December 2017, Turner
5 began to move money back into the owner's trust account. Turner stated while he did replace
6 the owners' trust funds he had used, there was a remaining deficit of \$3,363 in the account,
7 due to administrative/posting errors.

8 **(6) Violation:** By using the funds from the security deposits account (#9219) and clients'
9 trust account (#9201) to pay for business expenses and debts, Turner violated ORS
10 696.301(12) and (14) (2015 and 2017 Edition), which states a real estate license may be
11 disciplined if the licensee has: (12) demonstrated incompetence or untrustworthiness in
12 performing any act for which the licensee is required to hold a license; (14) committed an act of
13 fraud or dishonest conduct substantially related to the fitness of the licensee to conduct
14 professional real estate activity, without regard to whether the act or conduct occurred in the
15 course of professional real estate activity.

16 1.13 Turner provided examples of his property management agreement and tenant
17 lease agreement for inspection. The provided property management agreement dated
18 November 14, 2016, was with an owner, who, Turner said held security deposits, however, the
19 property management agreement stated that Turner would hold and maintain the security
20 deposits. The lease agreement indicated that Turner would be holding the security deposit.

21 **(7) Violation:** By transferring the security deposits to the owner, when the property
22 management agreement and lease agreement both indicated they would be held by Turner,
23 Turner violated ORS 696.301(3) as it incorporates OAR 863-025-0030(1)(a) (11-15-16 Edition)
24 which states all tenants security deposits received by a property manager must be deposited
25 and maintained in a security deposits account until the property manager forwards the security
26 deposit to the owner of the property according to the terms of the tenant's rental or lease
27 agreement and the property management agreement.

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2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301. A revocation of Turner's principal broker license is appropriate for violations of ORS 696.301(12) and (14).

2.2 A revocation is appropriate under ORS 696.396(2)(c)(B), and (C). According to ORS 696.396, the Agency may revoke a real estate license if the material facts establish a violation of a ground for discipline under ORS 696.301 that exhibits incompetency in the performance of professional real estate activity, or exhibits dishonesty or fraudulent conduct.

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.

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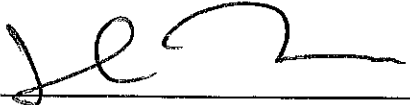
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ORDER

IT IS HEREBY ORDERED that Turner's principal broker license is revoked.

IT IS SO STIPULATED:

IT IS SO ORDERED:



JOHN DOUGLAS TURNER

DEAN OWENS

Acting Real Estate Commissioner

Date 10/1/2018

Date 10-12-2018

Date of Service: 10/12/2018