

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of
5
6 ABRAHAM WALSH

STIPULATED FINAL ORDER

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10 The Real Estate Agency (Agency) and Abraham Walsh (Walsh) do hereby agree and
11 stipulate to the following:

12 FINDINGS OF FACT
13 &
14 CONCLUSIONS OF LAW

15 1.

16 1.1 On October 5, 2015, Walsh was issued a property manager license. Walsh
17 conducts property management activity under the registered business name of Apartment
18 Community Management LLC (ACM) and Legacy Property Management (LPM).

19 1.2 On July 28, 2017, ACM was selected for a clients' trust account audit on clients'
20 trust account ending in #8232. The audit requested the reconciliation for May 2017 to be
21 submitted to the Agency within 30 days from the July 28, 2017 audit letter. The audit
22 documents received were late, on October 10, 2017, were incomplete and did not balance.

23 1.3 On November 8, 2017, the Agency opened an investigation.

24 1.4 In 2016 Walsh hired Sandy Carr (Carr) as an Accounting Manager. Her duties at
25 the time of the investigation included receiving and disbursing funds from the clients' trust
26 account and completing the monthly clients' trust account reconciliations.

27 1.5 As of November 6, 2017, Walsh did not have a dated and signed written
28 delegation for Carr.

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1 **(1) Violation:** By failing to have a signed, and dated written delegation of authority as
2 required, for employee Sandy Carr, Walsh violated ORS 696.301(3) as it incorporates OAR
3 863-025-0015(6)(b) (5-15-14, 11-15-2016 Editions), which states the following delegations of
4 the property manager's authority must be in writing, dated and signed by the property manager
5 and kept with written policies: (b) review and approve reconciliations and receive and disburse
6 funds under OAR 863-025-0025(23).

7 1.6 On November 2, 2017, Walsh provided an Inventory of and Authorization to
8 Examine Clients' Trust Account for the investigation. On the form, there were three accounts
9 listed, clients' trust account ending in #8232, security deposit account ending in #8224, and an
10 account ending in #4254. The account ending in #4254 was identified as a Wells Fargo
11 clients' trust account and was not registered with the Agency. Walsh explained this account
12 had been opened by Kent Carter (Carter), his predecessor, who had passed away around the
13 time Walsh obtained his license in October 2015.

14 **(2) Violation:** By failing to register clients' trust account ending in #4254 with the Agency,
15 Walsh violated ORS 696.301(3) as it incorporates ORS 696.241(4) (2015 Edition), which
16 requires a property manager to register each clients' trust account with the Agency within 10
17 business days after the date the account is opened.

18 1.7 During the investigation Walsh acknowledged there were accounting
19 inconsistencies dating back to 2011-2012, prior to him having a license, that he had not dealt
20 with.

21 1.8 As of November 6, 2017, clients' trust ending in #8232 (account selected for the
22 audit) still remained out of balance. Walsh failed to take corrective action or document his
23 good faith efforts to reconcile the difference for this account since May 2017,

24 1.9 Reconciliations submitted for September and October 2017 for accounts ending
25 in #4254, #8232, and #8224 (security deposits account) showed all three clients' trust
26 accounts were out of balance. Walsh failed to take corrective action to resolve the differences
27 in these accounts or document his good faith efforts to resolve the discrepancies which have
28 occurred since approximately 2011.

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1 **(3) Violation:** By failing to take corrective action or document the good faith efforts to
2 resolve adjustments on all three accounts, accounts ending in #8232, #4254, and #8224,
3 Walsh violated ORS 696.301(3) as it incorporates OAR 863-025-0025(22) (5-15-14, 11-15-
4 2016 Editions, which states a property manager must take corrective action to resolve all
5 adjustments made in a reconciliation prior to the next reconciliation or document the good faith
6 efforts the property manager has taken to resolve the adjustments. Per OAR 863-025-
7 0025(23) (5-15-2014, 11-15-2016 Editions), Walsh remains solely responsible for all funds and
8 transactions relating to the clients' trust account.

9 1.10 On November 6, 2017, during his interview with Agency Investigator/Auditor
10 Meghan Lewis, Walsh was asked to produce the most recent monthly reconciliations for
11 accounts ending in #8232, 4254 and #8224 (security deposits account). Carr told Lewis
12 September 2017 was done, but October 2017 was incomplete. Carr explained she was having
13 trouble completing the single reconciliation form.

14 1.11 A review of the September 2017 reconciliations documents submitted on
15 November 6, 2017 for the three different accounts showed Part 1, the reconciled bank balance
16 was entered, but Part 2 and Part 3 were left blank. The September 2017 reconciliations were
17 not properly completed with the required three components within 30 days from the date of the
18 bank statement.

19 **(4) Violation:** By failing to properly and timely reconcile the accounts ending in #8232,
20 #4254, and #8224, for September 2017, within 30 days from the date of the bank statement
21 Walsh violated ORS 696.301(3) as it incorporates OAR 863-025-0025(20)(a)(B)(C) (11-15-16
22 Edition) and 863-025-0025(21)(a)(B)(C) (11-15-16 Edition). OAR 863-025-0025(20)(a)(B)(C)
23 states a property manager must reconcile each clients' trust account within 30 calendar days
24 of the date of the bank statement pursuant to the requirements contained in this section: (a)
25 the reconciliation must have three components that are contained in a single reconciliation
26 document: (B) the record of receipts and disbursements or check register, and (C) the sum of
27 all positive owners' ledgers as of the date of the bank statement.

28 OAR 863-025-0025(21)(a)(B)(C) states a property manager must reconcile each security
29 deposits account within 30 calendar days of the date of the bank statement pursuant to the
30 requirements contained in this section (a) the reconciliation must have three components that

1 are contained in a single reconciliation document: (B) the balance of the record of receipts and
2 disbursements or the check register as of the date of the bank statement and (C) the sum of all
3 security deposits.

4 1.12 On November 10, 2017, Walsh re-submitted the September 2017 reconciliations
5 for accounts ending in #4254, #8224, and #8232, all were dated November 8, 2017 (more than
6 30 days from the date of the bank statement, September 30, 2017).

7 **(5) Violation:** By failing to timely complete the required reconciliations within 30 days from
8 the date of the bank statement Walsh violated ORS 696.301(3) as it incorporates OAR 863-
9 025-0025(20)(d)(A)(B) and OAR 863-025-0025(21)(d)(A)(B) (11-15-16 Edition) which requires,
10 (d) a property manager to reconcile each clients' trust account and security deposits account
11 within 30 days of the bank statement, the property manager must (A) complete the
12 reconciliation document, and (B) sign and date the reconciliation document attesting to the
13 accuracy and completeness of the reconciliation.

14 1.13 November 10, 2017, submissions of the September and October 2017
15 reconciliations for trust accounts ending in #4254, #8224 (security deposits account), and
16 #8323, all contained unresolved differences between the three parts. Walsh failed to take
17 corrective action to resolve adjustments or document his good faith efforts taken to resolve
18 adjustments.

19 **(6) Violation:** By failing to take corrective action to resolve discrepancies or failing to
20 document the good faith efforts taken, Walsh violated ORS 696.301(3) as it incorporates OAR
21 863-025-0025(22) (5-15-14 and 11-15-16 Editions) which state a property manager must take
22 corrective action to resolve all adjustments made in a reconciliation prior to the next
23 reconciliation, or document the good faith efforts the property manager has taken to resolve
24 the adjustment.

25 1.14 A review of reconciliation documents shows check #9328, dated November 14,
26 2017, for \$737.49 made payable to "Legacy Property Management." In the description detail it
27 specifies "postage" for a total of \$3.24, and "Management fees for 10/2016," totaling \$734.25.

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1 1.15 Per Walsh's explanation, the check for these management fees originally was
2 issued in the month fees were earned, however the original check did not clear the bank
3 account #8232, and the management fees remained in the clients' trust account. The
4 November 14, 2017 check relating to October 2016 management fees was being re-issued to
5 remove earned management fees from the clients' trust account.

6 **(7) Violation:** By failing to take earned management fees in the month that they were
7 earned for October 2016 in the amount of \$734.25, Walsh violated ORS 696.301(3) as it
8 incorporates OAR 863-025-0025(15) (5-15-14 Edition) which states a property manager must
9 disburse earned management fees from the clients' trust account at least once a month,
10 unless a different schedule of disbursement is specified in the property management
11 agreement, and may only disburse the fee if sufficient funds are available.

12 1.16 All of the above demonstrates incompetence in performing acts for which Walsh
13 is required to hold a license.

14 **(8) Violation:** ORS 696.301(12) (2015 Edition) which states a real estate license can be
15 disciplined if the licensee demonstrated incompetence in performing any act for which the
16 licensee is required to hold a license.

17 2.

18 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.

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

21 3.

22 STIPULATION & WAIVER

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

1 freely and voluntarily waive my rights to a hearing, to representation by legal counsel at such a
2 hearing, and to judicial review of this matter.

3 I hereby agree and stipulate to the above findings of fact and conclusions of law and
4 understand that the order which follows hereafter may be completed and signed by the Real
5 Estate Commissioner or may be rejected by the Real Estate Commissioner. I understand that,
6 in accordance with the provisions of ORS 696.445(3), notice of this order shall be published in
7 the Oregon Real Estate News Journal.

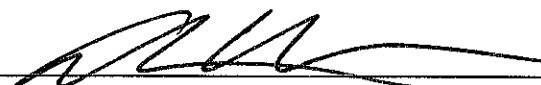
8 ORDER

9 IT IS HEREBY ORDERED that Walsh's property manager license be, and hereby is
10 reprimanded.

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

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19 IT IS SO STIPULATED:

IT IS SO ORDERED:

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23 ABRAHAM WALSH

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25 Date

8/12/2018

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23 DEAN OWENS

24 Acting Real Estate Commissioner

25 Date

8/29/18

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27 Date of Service:

8/29/2018