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5REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of

JODY L. DRAPER

STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Jody L. Draper (Draper) do hereby agree and stipulate to the following:

FINDINGS OF FACT
&
CONCLUSIONS OF LAW

1.

1.1 At all times mentioned herein, Draper was licensed as a real estate broker with Keller Williams Realty, Eugene and Springfield (Keller Williams).

1.2 On July 31, 2018, the Agency received a complaint from Travis Tubbs (Tubbs) relating to his purchase of property located at 3577 Jefferson Scio Dr. SE (subject property). Draper was the listing agent for the subject property.

1.3 Draper is a member of West Gate Group LLC along with Brad Dumillieu (Dumillieu). West Group LLC (West Gate) owned the subject property.

1.4 On April 15, 2017, Travis Tubbs (Tubbs) made an offer to purchase the subject property from West Gate.

1.5 On April 19, 2017, Tubbs received a Seller's Property Disclosure Statement signed by both Dumillieu and Draper on March 30, 2017 as the sellers. For the question stating, "Has the property ever been used as an illegal drug manufacturing or distribution site," Dumillieu and Draper answered, "Unknown."

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1 1.6 On July 7, 2017, Draper signed a Statutory Warranty Deed transferring title of the
2 subject property to Travis and Denay Tubbs.

3 1.7 Dumillieu had lived in subject property for a few years prior to it being sold to
4 Tubbs. Draper never occupied the subject property.

5 1.8 A few days after escrow closed, Dumillieu met with Ricardo Vega (Tubbs' agent)
6 and told Vega not to let Tubbs' family move into the house because it was contaminated with
7 Methamphetamine (Meth). Dumillieu told Vega that he had tested the property for Meth and
8 the tests came back positive. Vega asked Dumillieu if Draper knew that Dumillieu had tested
9 for Meth and Dumillieu told Vega that Draper had known.

10 1.9 On July 14, 2017, Vega sent an email to Draper, stating in part the following:
11 "Jody, I was just informed by Brad that there has been Methamphetamine
12 production on the property and in the home."

13 1.10 Draper called Vega in response to his email and admitted he had heard Dumillieu
14 talk about the Meth contamination, but he hadn't believed Dumillieu.

15 1.11 In his written response to Tubbs' complaint, Draper pointed out that Dumillieu had
16 his girlfriend and her dog living at the property as well as having other people's children and
17 dogs on and in the property. Draper said these reasons led him to believe the property was fit
18 to be occupied.

19 1.12 According to Draper, there were multiple instances where Dumillieu had
20 sabotaged his efforts to sell the subject property so Dumillieu could continue to live there rent
21 free as caretaker.

22 1.13 Draper admitted that during an attempt to sell the subject property in 2015
23 Dumillieu told Draper he had heard rumors that the property was contaminated with Meth.
24 Draper thought it was another attempt by Dumillieu to sabotage the sale. Draper obtained a
25 home test kit for Meth and performed the test and the results showed negative for any traces
26 of Meth residue. Draper said he had tried to do the right thing by performing the test, and
27 when the results were negative, he assumed the rumors were not true.

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1 **Violation:** By failing to disclose to the buyer that Brad Dumillieu had informed Draper he
2 had the house tested for Meth contamination, with positive results, and Draper had performed
3 a home test for Meth contamination, with negative results, Draper violated ORS 696.301(3) as
4 it incorporates ORS 696.805(2)(a) and (c) (2015 Edition) which states (2) a seller's agent owes
5 the seller, other principals and the principals' agents involved in a real estate transaction the
6 following affirmative duties: (a) to deal honestly and in good faith; (c) to disclose material facts
7 known by the seller's agent and not apparent or readily ascertainable to a part. Draper also
8 demonstrated incompetence in violation of ORS 696.301(12) which states a licensee's real
9 estate may be subject to discipline if they have demonstrated incompetence or
10 untrustworthiness in performing any actions for which the licensee is required to hold a license.

11 **Violation:** By failing to hire a professional licensed Meth Testing and Abatement
12 contractor in 2015 when Draper was first told the property might be contaminated with Meth
13 and instead of performing the home test himself, Draper engaged in conduct that is below the
14 standard of care for the practice of professional real estate activity in Oregon, as established
15 by the community of individuals engaged in the practice of professional real estate activity in
16 Oregon, in violation of ORS 696.301(15) (2015 Edition).

17 1.14 Draper said the next he heard of any potential contamination was a few days
18 after Tubbs' escrow closed, Dumillieu contacted Tubbs' broker (Vega) and told him that the
19 house was contaminated. Draper said as soon as he heard, he ordered testing by a
20 professional Meth testing company.

21 1.15 On July 16, 2017, Draper hired Environmental Testing & Training Northwest to
22 test the property for Meth contamination. Four locations inside the house were tested, with
23 three of the four samples showing positive for Meth contamination. Draper said after the tests
24 came back positive, he immediately contacted his personal insurance copy, as well as Keller
25 Williams contacting theirs. Draper said he tried to help Tubbs in any way he could.

26 1.16 According to Draper, Tubbs declined rescinding the contract.

27 1.17 Several mediation meetings were held. On October 25, 2018, Tubbs sent an
28 email to Agency Investigator Rob Pierce to inform the Agency that he had reached a
29 settlement with Keller Williams' insurance company and wished to remove his complaint
30 against Draper.

2.

2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301. Based on these violations a suspension is appropriate for violations of ORS 696.301(12) and (15).

2.2 A suspension of Draper's broker license is appropriate under ORS 696(2)(c)(A), and (B). According to ORS 696.396, the Agency may suspend a real estate license if the material facts establish a violation of a ground for discipline under ORS 696.301 that: results in significant damage or injury; exhibits incompetence in the performance of professional real estate activity.

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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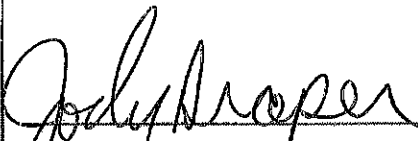
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ORDER

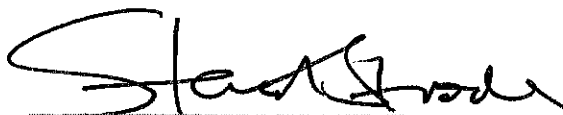
IT IS HEREBY ORDERED that Draper's broker license be suspended for 30 days. The suspension will start on August 26, 2019, and run consecutively through September 24, 2019.

IT IS SO STIPULATED:

IT IS SO ORDERED:



JODY L. DRAPER



Steven Strode
Real Estate Commissioner

Date 6-1-19

Date 7/9/19

Date of Service: 7/9/2019