

**BEFORE THE  
REAL ESTATE AGENCY  
STATE OF OREGON**

IN THE MATTER OF:  <b>JOHN O. HALVORSON, Licensee</b>	) <b>FINAL ORDER ON REMAND</b> ) ) OAH Case No. 2018-ABC-02052 ) Agency Case No. 2013-90
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This matter came before the Real Estate Agency to consider the Amended Proposed Order on Remand issued by Administrative Law Judge (ALJ) Alison Greene Webster on March 20, 2019. No exceptions were filed to the Amended Proposed Order on Remand.

After considering the records and the file herein, the Agency adopts the attached and incorporated Amended Proposed Order on Remand as the Final Order.

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

Dated this 16<sup>th</sup> day of April 2019.

  
\_\_\_\_\_  
Steven Strode  
Real Estate Commissioner

Date of Service: 4/16/19

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days of the service of this order. Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of Appeals.

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF OREGON  
for the  
REAL ESTATE AGENCY**

IN THE MATTER OF: ) **AMENDED<sup>1</sup> PROPOSED ORDER**  
 ) **ON REMAND**  
 )  
**JOHN O. HALVORSON** ) OAH Case No. 2018-ABC-02052  
 ) Agency Case No. 2013-90  
 )

**HISTORY OF THE CASE**

On October 2, 2014, the Real Estate Agency (REA or Agency) issued a Notice of Intent to Revoke to John O. Halvorson (Licensee). Licensee timely requested a hearing. On April 27, 2015, the Agency issued an Amended Notice of Intent to Revoke, alleging violations of ORS 696.301(6), (7), and (14).

On August 5, 2015, the Agency issued a Final Order revoking Licensee's real estate license. The Agency's Final Order adopted a Proposed Order issued by Senior Administrative Law Judge (ALJ) Alison Greene Webster granting summary determination in the Agency's favor, and finding, among other things, that Licensee violated ORS 696.301(6), (7), and (14). Licensee timely appealed the Agency's Final Order.

On March 14, 2018, the Oregon Court of Appeals issued its decision *Halvorson v. Real Estate Agency*, 290 Or App 756 (2018), reversing and remanding the Agency's August 5, 2015 Final Order. The Court of Appeals found there were disputed issues of fact material to whether Licensee violated ORS 696.301(6) and (7). On May 7, 2018, the Court of Appeals issued its Appellate Judgment reversing and remanding the case to the Agency.

On July 16, 2018, the Agency referred the hearing on remand to the Office of Administrative Hearings (OAH). The OAH assigned ALJ Webster to preside at the hearing on remand.

On September 12, 2018, the Agency issued a Second Amended Notice of Intent to Revoke Licensee's license. The Second Amended Notice proposed revocation based on a single violation of ORS 696.301(14) (2011 edition).

On December 13, 2018, ALJ Webster convened a prehearing conference. Senior Assistant Attorney General (AAG) Raul Ramirez appeared for the Agency. Licensee participated without counsel. Licensee requested to postpone or continue the hearing on remand

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<sup>1</sup> The amendment is to correct Licensee's mailing address on the certificate of service. No substantive changes to the proposed order on remand have been made."

for 90 days pending determinations in federal and bankruptcy court proceedings involving Licensee. Licensee's request for a 90 day continuance was denied based on the limited scope of the hearing on remand. The remand hearing was set for February 21, 2019.

On February 6, 2019, Licensee renewed his request to postpone the remand hearing, asserting he needed additional time to obtain counsel to represent him at the remand hearing. The Agency objected to any postponement. The ALJ denied the postponement request finding that Licensee had not shown good cause to postpone the hearing.

On February 20, 2019, Licensee again asked to postpone the remand hearing until such time that he could afford to retain counsel. Licensee also asserted he could not afford to travel to Salem for the hearing. The Agency objected to postponement of the hearing. The ALJ offered Licensee the opportunity to appear for the remand hearing via telephone. Licensee declined to participate via telephone, stating he did not wish to appear without counsel.

ALJ Webster convened the remand hearing at 9:30 a.m. on February 21, 2019, in Salem, Oregon. The Agency was represented by AAG Ramirez. Licensee Halvorson did not appear for the hearing and was declared in default.

The Agency opted to put on testimony in addition to its designated file in this matter. Selina Barnes, Agency Regulation Division Manager, testified on the Agency's behalf. The record closed on February 21, 2019 at the conclusion of the remand hearing.

## **ISSUE**

Whether the Agency may revoke Licensee's license based upon Licensee's violation of ORS 696.301(14)(2011).<sup>2</sup>

## **EVIDENTIARY RULING**

Agency Exhibits A1 through A32 were admitted into the record.<sup>3</sup>

## **FINDINGS OF FACT<sup>4</sup>**

1. From April 23, 2007 through March 29, 2013, Licensee held an active license to

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<sup>2</sup> ORS 696.301(14) (2011) authorizes the Agency to suspend or revoke the real estate license of any licensee who has "committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity."

<sup>3</sup> Exhibits A1 through A24 were previously admitted in connection with the Agency's Motion for Summary Determination and were part of the record on appeal. Exhibits A25 through A30, prior Agency Final Orders in which the Agency ordered revocation of licensees' real estate licenses for violating ORS 696.301(14), were admitted in support of the Agency's prima facie case on remand.

<sup>4</sup> Finding nos. 1 through 7 herein are based on facts previously adjudicated in the Agency's August 5, 2015 Final Order.

conduct real estate activity in Oregon. Licensee did not renew his license, and the license expired on March 31, 2013. (Exs. A1 and A2.)

2. In 2005, Licensee married Grace Baek. (Ex. 7 at 3; Ex. 11 at 2.) The marriage included a prenuptial agreement in which, among other things, Licensee agreed that he would have no claim, based on the marriage, in various companies that served as investment vehicles for the Baek family (referred to herein as the Baek LLCs).<sup>5</sup> (Ex. A23 at 2.)

3. Licensee's marriage to Grace Baek later failed and divorce papers were filed in November 2012. (Ex. A23 at 2.)

4. In 2013, Licensee became embroiled in other litigation with his ex-wife and ex-brother in law. The litigation arose out of Licensee's alleged ownership interest in the Baek family companies, Licensee's entitlement to a real estate commission on the sale of property owned by a Baek LLC and other matters. Licensee's lawsuits against Grace Baek, Richard Baek and the Baek LLCs, and the Baeks' and Baek LLCs' actions against Licensee, were consolidated into one matter in Multnomah County Circuit Court, Case No. 1309-12855. (Exs. A23 and A24.)

5. In the course of discovery in the consolidated circuit court cases, Licensee provided a document to the other parties purporting to be a 2008 amendment to his and Ms. Baek's prenuptial agreement. Among other things, this document indicated that Licensee had community interest in the Baek family properties. The opposing parties were unfamiliar with this amendment and believed that Licensee had fabricated it. When confronted about the document at his deposition, Licensee defended it and denied that he created it. He swore to its validity and asserted that it established his claims to an ownership interest in the Baek companies. Subsequently, in an errata sheet to his deposition, Licensee acknowledged that his answers to questions regarding the amended prenuptial agreement were false. He also admitted creating the forged document. (Ex. A23 at 3-4; Ex. A22.)

6. In an Opinion and Order issued in the consolidated Multnomah County Circuit Court cases on June 25, 2014, Judge Edward J. Jones found as follows:

The court finds, beyond a reasonable doubt, that Mr. Halvorson intentionally, and in bad faith, forged the amended prenuptial agreement in an effort to gain unfair advantage in his litigation with the Baeks and their companies. The court further concludes Mr. Halvorson's forgery did inflict damage on the truth seeking process, was prejudicial to other parties, and did undermine the administration of justice.

(Ex. A23 at 5.)

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<sup>5</sup> In 2004 and 2005, Grace Baek and her brother Richard Baek formed two limited liability companies to hold real estate. The Baek siblings were the only members of the Baek LLCs when the companies were formed. Each held a 50 percent interest. (Exs. A4 and A5.)

7. In a General Judgment of Contempt issued February 9, 2015 in the consolidated cases Judge Jones found, in part, as follows:

1. Halvorson willfully and maliciously disobeyed the Court's authority or processes in contempt of this Court by deliberately and intentionally falsifying evidence in discovery and repeatedly and knowingly committing perjury about his role in producing false evidence, and that Halvorson intentionally and knowingly did so for personal gain and to deceive the parties and this Court, and his disobedience has been proven beyond a reasonable doubt.

2. Halvorson committed fraud on the Court and the parties by knowingly falsifying evidence in discovery and repeatedly committing perjury about his role in producing the false evidence.

3. Halvorson's contempt of and fraud upon the Court has inflicted serious damage to the truth seeking process and has severely prejudiced and injured other parties and the administration of justice in these consolidated proceedings.

4. At the time of the falsification of evidence and perjury, Halvorson knew that such conduct was wrongful, without cause, and would prejudice and cause injury to the other parties and the administration of justice.

(Ex. A24 at 4.) As a sanction for Licensee's willful and malicious misconduct and his knowing and deliberate fraud on the court and parties, Judge Jones ordered all of Licensee's claims, counter claims and third party claims dismissed with prejudice. The court further ordered Licensee to pay all other parties all reasonable attorney fees incurred by the other parties as a result of Licensee's willful and malicious misconduct and knowing and deliberate fraud. (*Id.* at 5.)

8. Pursuant to ORS 696.301(14) (2011), the Agency is entitled to discipline a licensee who commits an act of fraud or who engages in dishonest conduct substantially related to the licensee's fitness to conduct real estate activity without regard to whether the act or conduct occurred in the course of professional real estate activity. The Agency has an established record of revoking the real estate licenses of licensees who have been found to have engaged in dishonest or fraudulent conduct. (Exs. A25 to A32.) Although the Agency is required to consider progressive discipline when sanctioning a licensee, the Agency considers dishonesty and fraudulent conduct as too serious for lesser sanctions. (*Id.*; test. of Barnes.)

9. In proposing revocation of Licensee's license, the Agency considered that Licensee acted intentionally and in bad faith when he forged a document to gain unfair advantage in litigation. Although Licensee's acts of forgery and perjury occurred in his personal capacity, his egregious conduct is substantially related to his fitness to conduct professional real estate activity, warranting revocation of his real estate license. (Test. of Barnes.)

## CONCLUSION OF LAW

The Agency may revoke Licensee's license based upon Licensee's violation of ORS 696.301(14) (2011).

## OPINION

Given the procedural posture of this case and the single violation alleged in the Second Amended Notice, the issue on remand is relatively narrow: whether the Agency may revoke Licensee's license based upon his violation of ORS 696.301(14) (2011).<sup>6</sup>

The Agency has the burden of establishing that the proposed sanction is appropriate. ORS 183.450(2) ("The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position"); *Dixon v. Board of Nursing*, 291 Or App 207, 2013 (2018) (the standard of proof that generally applies in agency proceedings, including license-related proceedings, is the preponderance of the evidence standard). Even though Licensee defaulted at the remand hearing, the Agency must establish a prima facie case. ORS 183.417(4); OAR 137-003-0670.

As noted above, ORS 696.301(14) (2011) authorizes the Agency to suspend or revoke the real estate license of any licensee who has "committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity." Pursuant to ORS 696.396(2)(c)(C), the Agency may revoke a real estate license where the material facts establish a violation that "exhibits dishonesty or fraudulent conduct." The Agency has an established record of revoking the real estate licenses of licensees who have been found to have engaged in dishonest or fraudulent conduct.

In this case, as Licensee has conceded, he forged a contractual document and falsely testified about its validity under oath. Licensee's acts of forgery and perjury were found to be willful, malicious, knowing and deliberate. Although Licensee engaged in these egregious acts in his personal, as opposed to professional, capacity, the conduct is nevertheless substantially related to his fitness to conduct professional real estate activity.

As noted in the Agency's August 5, 2015 Final Order, professional real estate activity is a matter of public concern, and is to be conducted with high fiduciary standards. In addition to fiduciary duties to their clients, licensed brokers have an affirmative duty to, among other things, deal honestly and in good faith and disclose known material facts. *See, e.g.*, ORS 696.805, 696.810 and 696.815. Consequently, Licensee's intentional acts of fraud and perjury bear an obvious and substantial relationship to his fitness, or lack thereof, to engage in professional real estate activity. His actions demonstrate the extreme lengths to which he was willing to go to achieve personal financial gain. *See Kerley v. Real Estate Agency*, 337 Or 309 (2004) (holding that a person's prior acts of dishonesty and untrustworthiness relate substantially to his or her

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<sup>6</sup> The Court of Appeals' decision specifically noted that Licensee did "not assert that there is a disputed issue of fact with regard to his violation of ORS 696.301(14)." 290 Or App at 765. Licensee's concession of the ORS 696.301(14) violation was also noted in the Agency's August 5, 2015 Final Order at page 13.

fitness and ability to engage in real estate activity and can justify denial or revocation of licensure).

Given the Agency's established record of revoking the real estate licenses of licensees found to have engaged in dishonest and fraudulent conduct, and considering the intentional and bad faith nature of Licensee's acts of forgery and perjury in litigation with his ex-wife and ex-brother in law, revocation of Licensee's Oregon real estate license is warranted for his admitted violation of ORS 696.301(14) (2011).

### **ORDER**

I propose the Real Estate Agency issue the following order:

John O. Halvorson's license to conduct real estate activity in Oregon (currently in lapsed status) is hereby REVOKED.

Alison Greene Webster

Presiding Administrative Law Judge  
Office of Administrative Hearings

### **NOTICE**

This is the Administrative Law Judge's Proposed Order. If the Proposed Order is adverse to you, you have the right to file written exceptions and argument to be considered by the Real Estate Commissioner in issuing the Final Order. Your exceptions and argument must be received by the 20th day from the date of service. Send them to:

Janae Weston  
Oregon Real Estate Agency  
530 Center Street NE Ste 100  
Salem, OR 97301-2505

The Real Estate Commissioner will issue a Final Order, which will explain your appeal rights.

**CERTIFICATE OF MAILING**

On March 20, 2019 I mailed the foregoing **AMENDED PROPOSED ORDER ON REMAND** issued on this date in OAH Case No. 2018-ABC-02052.

By: First Class and Certified Mail

John O Halvorson  
PO Box 923  
Corna Del Mar CA 92625

By: Electronic Mail

Liz Hayes, Agency Representative  
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Raul Ramirez, Assistant Attorney General  
Department of Justice  
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Lucy M Garcia  
Hearing Coordinator



# Certificate of Mailing

On April 16, 2019, I mailed the foregoing Final Order issued on this date in OAH Case No. 2018-ABC-02052 and the Agency Case No. 2013-90.

By: First Class Mail

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