

REAL ESTATE AGENCY  
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of )  
ELISHA ANN ALCANTARA ) STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Elisha Ann Alcantara (Alcantara) do hereby agree and stipulate to the following:

FINDINGS OF FACT  
&  
CONCLUSIONS OF LAW

1.

1.1 At all times mentioned herein, Alcantara was licensed as a principal broker and was working under the registered business name Encompass Realty, LLC and Encompass Property Management LLC.

1.2 In August 2017, the Agency received a complaint from Kathleen Miller (Miller) against Alcantara regarding property at 7130 SW 76<sup>th</sup> Avenue, Portland, (subject property) that Alcantara flipped and listed for sale. The Agency opened an investigation.

1.3 On December 8, 2016, PDX Real Estate Partner, LLC (a company owned by Alcantara) purchased buyer’s interest rights for \$17,500 from Robert Shaw (Shaw) a real estate wholesaler who was under contract to purchase the subject property from the property owners.

1.4 In December 2016 (prior to Alcantara being assigned buyer’s interest rights), Shaw had purchased a home inspection on the subject property. Alcantara received a copy of this December 2016 inspection report which noted numerous issues.

1.5 On January 6, 2017, Alcantara signed a promissory note with hard money lender Silverado Funding, LLC for a 12 month loan for \$292,700 at 16% interest with \$44,700.00

1 intended to renovate the property. Encompass Realty broker, Alaina Johnson contributed  
2 \$5,000.00 earnest money as a silent investor.

3 1.6 From January through July 2017, Alcantara renovated the property through  
4 Encompass Design and Renovation (a company owned by Alcantara).

5 1.7 On July 18, 2017, Alcantara listed the subject property with RMLS for  
6 \$400,000.00 as the listing agent representing her company PDX Real Estate Partner, LLC as  
7 the seller.

8 1.8 On July 20, 2017, Alcantara completed a Seller's Property Disclosure Statement  
9 (property disclosure) for the subject property.

10 1.9 On July 22, 2017, broker Jason Anderson (Anderson) submitted the Millers' offer  
11 of \$420,000 for the subject property to Alcantara.

12 1.10 On July 26, 2016, Anderson received the property disclosure from Alcantara.

13 1.11 On August 1, 2017, the Millers had a home inspection on the subject property.  
14 The Millers terminated the transaction and on August 2, 2017, Alcantara received a copy of the  
15 August 1, 2017, home inspection performed on behalf of the Millers noting many of the same  
16 issues that were noted in the December 2016 inspection report.

17 1.12 After the Millers terminated, Alcantara convinced Carey Jones (Jones), to  
18 purchase the subject property.

19 1.13 Jones stated she had not received a property disclosure from Alcantara on the  
20 subject property and was unable to locate one in her documents. The property disclosure  
21 document provided by Alcantara for Jones' transaction was dated July 20, 2017, and appeared  
22 to be identical to the property disclosure she had provided to the Millers, but did contain an  
23 additional page disclosing Shaw had an inspection done prior to assigning the contract. It was  
24 signed by Jones on August 11, 2017.

25 1.14 The RMLS listing created by Alcantara showed Alcantara as the agent  
26 representing both the seller and buyer.

27 1.15 Alcantara did not disclose the following 13 separate material facts which she had  
28 knowledge of to the Millers or to Jones in regards to the condition of the subject property:

- 29
- The December 2016 inspection report includes a recommendation to have the sewer  
30 line scoped. The sewer line was scoped and Shaw notified Alcantara by email on  
December 5, 2016, that the plumber recommended replacing the sewer line.

1 Alcantara failed to disclose information from the December 2016 inspection  
2 regarding the sewer line condition to the Millers

- 3 • The August 2017 inspection report recommended repairing the “dripping/leaking  
4 sewer pipe.” Both the December 2016 and August 2017 inspection reports noted  
5 sewer issues that Alcantara did not disclose to Jones.
- 6 • Alcantara indicated on the property disclosure she did not know if there was  
7 insulation in the ceiling. She did not accurately disclose information received from  
8 the December 2016 inspection about the inadequate or missing insulation in  
9 attic/ceiling to the Millers.
- 10 • Both the December 2016 and August 2017 inspection reports indicate inadequate or  
11 missing insulation in the attic. Alcantara did not accurately disclose the attic/ceiling  
12 insulation levels to Jones.
- 13 • Alcantara indicated on the property disclosure that there were no defective insulated  
14 doors or windows. The August 2017 inspection report indicates leaking window  
15 thermal seals in front facing master bedroom window. Alcantara did not disclose  
16 information received from August 2017 inspection about leaking window seals to  
17 Jones.
- 18 • Alcantara indicated on the property disclosure that the roof had not leaked. The  
19 December 2016 inspection report indicates visible water staining on the ceiling of the  
20 utility room from a roof leak. She did not disclose this information about the  
21 condition of the roof she received from the December 2016 inspection to the Millers.
- 22 • Alcantara did not disclose information she received from the December 2016  
23 inspection about the condition of the roof to Jones.
- 24 • The December 2016 and August 2017 inspection reports indicate there was no  
25 handrail on the front steps per building code. Alcantara listed the property for sale  
26 and eventually sold it to Jones without the required handrail for safety and without  
27 disclosing that it failed to meet code requirements because the handrail was  
28 missing.
- 29 • The December 2016 inspection report indicates there was improper wiring in the  
30 attic that needed evaluation by an electrician. Alcantara did not disclose this  
information to the Millers.

- 1 • The August 2017 inspection report also noted there was “live/hot” wiring in contact  
2 with the wood ceiling joists in the attic that was a fire hazard. Alcantara did not  
3 disclose the information received from both inspections regarding the improper  
4 wiring to Jones.
- 5 • Alcantara did not disclose that the August 2017 inspection had been performed on  
6 the property disclosure provided to Jones.
- 7 • On March 28, 2017, Alcantara received Bulk Sample Analysis reports showing the  
8 kitchen floor contained 10% Chrysotile (friable asbestos that requires abatement by  
9 a licensed asbestos contractor). Alcantara did not hire a licensed asbestos  
10 contractor, but had the asbestos material improperly disposed of. Alcantara did not  
11 disclose the results of the asbestos testing and improper disposal of asbestos  
12 material to the Millers.
- 13 • Alcantara did not disclose the results of the asbestos testing to Jones, nor did she  
14 disclose that the 10% Chrysotile friable asbestos had been improperly removed from  
15 the subject property.

16 **(1) Violation:** By failing to disclose 13 separate material facts to the Millers and Jones  
17 Alcantara violated ORS 696.301(3) as it incorporates ORS 696.805(2)(a),(c),(3)(a),(e) (2015  
18 Edition). According to ORS 696.805(2)(a),(c),(3)(a),(e): (2) a seller’s agent owes the seller,  
19 other principals and the principal’s agents involved in a real estate transaction the affirmative  
20 duties of: (a) to deal honestly and in good faith; (c) to disclose all material facts known by the  
21 seller’s agent and not apparent or readily ascertainable to a party. (3) a seller’s agent owes the  
22 seller involved in a real estate transaction the following affirmative duties: (a) to exercise  
23 reasonable care and diligence; (e) to advise the seller to seek expert advice on matters related  
24 to the transaction that are beyond the agent expertise. Alcantara also violated ORS  
25 696.301(3) as it incorporates ORS 696.810(2)(a),(c),(3)(a),(e) (2015 Edition). ORS  
26 696.810(2)(a),(c),(3)(a),(e) states: (2) a buyer’s agent owes the buyer, other principals and the  
27 other principals’ agents involved in a real estate transaction the following affirmative duties: (a)  
28 to deal honestly and in good faith; (c) to disclose material facts known by the buyer’s agent  
29 and not apparent or readily ascertainable to a party. (3) a buyer’s agent owes the buyer  
30 involved in a real estate transaction the following affirmative duties: (a) to exercise reasonable  
care and diligence; (c) to be loyal to the buyer by not taking action that is adverse or

1 detrimental to the buyer's interest in a transaction; (e) and to advise the buyer to seek expert  
2 advice on matters related to the transaction that are beyond the agent's expertise.

3 1.16 According to Jones, Alcantara had told Jones she would make the \$21,000.00  
4 down payment on the house and Alcantara also said she would pay the difference between the  
5 amount of Jones' current rent and what the monthly mortgage would be on the subject  
6 property. Jones said her mother "loaned" her the \$21,000.00 down payment money and  
7 Alcantara paid her mother back so it appeared as if the down payment was gifted to Jones  
8 from family. Alcantara also gave her a \$9,000.00 credit toward closing cost, then put a lien on  
9 the subject property for the amount of the down payment and closing credit.

10 **(2) Violation:** By loaning Jones \$21,000 for the down payment on the subject property  
11 which was fraudulently presented to the mortgage lender as gifted funds from Jones' mother  
12 Alcantara violated ORS 696.301(3) as it incorporates ORS 696.810(2)(a),(3)(a),(c) (2015  
13 Edition). Per ORS 696.810(2)(a),(3)(a),(c): (2) a buyer's agent owes the buyer, other  
14 principals and the principals' agents involved in a real estate transaction the following  
15 affirmative duties: (a) to deal honestly and in good faith. (3) 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; and (c) to be loyal to the buyer by not taking action that is adverse or  
18 detrimental to the buyer's interest in a transaction.

19 1.17 Alcantara advised Jones that a home inspection of the subject property was not  
20 needed because she had already fixed everything at the subject property that needed fixing.  
21 Alcantara also advised Jones on which mortgage company to use.

22 1.18 Alcantara completed the Final Agency Acknowledgement indicating she was  
23 representing the seller exclusively, however she completed the RMLS listing for the subject  
24 property with herself noted as the buyer's and seller's agent. A Receipts and Disbursements  
25 Summary from Old Republic Title shows Encompass Realty received a 5% commission on the  
26 transaction.

27 **(3) Violation:** By acting as a disclosed limited agent by representing both the buyer and  
28 seller in the transaction and advising Jones that a home inspection was not needed Alcantara  
29 violated ORS 696.301(3) as it incorporates 696.810(2)(a),(c),(3)(a),(e) (2015 Edition). Per ORS  
30 696.810(2)(a),(c),(3)(a),(e): (2) A buyer's agent owes the buyer, other principals and the  
principals' agents involved in a real estate transaction the following affirmative duties: (a) to

1 deal honestly and in good faith; (c) to disclose material facts known by the buyer's agent and  
2 not apparent or readily ascertainable to a party. (3) A buyer's agent owes the buyer involved in  
3 a real estate transaction the following affirmative duties: (a) to exercise reasonable care and  
4 diligence; (e) to advise the buyer to seek expert advice on matters related to the transaction  
5 that are beyond the agent's expertise.

6 1.19 Alcantara discovered the master bathroom addition was not permitted prior to the  
7 Millers submitting an offer to purchase the subject property. According to Washington County  
8 Building Services, the bathroom addition in the subject property was never fully permitted.

9 1.20 In a letter to the Agency, dated September 14, 2017, Alcantara reported that,  
10 "Upon filling out seller disclosures, I looked up the permit status online to make sure I was  
11 giving accurate information. Upon doing so, I discovered there was not a permit for the  
12 bathroom addition. I immediately contacted the buyers' agent and let him know what I  
13 learned."

14 1.21 The property disclosure was completed on July 20, 2017, two days prior to the  
15 Millers submitting an offer on the subject property. Additionally, in the letter to the Agency  
16 Alcantara wrote that she, "immediately drafted and sent an addendum reflecting corrective  
17 action," yet the addendum was drafted on July 27, 2017, which is seven days after the property  
18 disclosure was completed.

19 **(4) Violation:** By making untruthful statements Alcantara engaged in dishonest conduct  
20 substantially related to the fitness of a real estate licensee in violation of ORS 696.301(14),  
21 which states a licensee's real estate license may be disciplined if they have committed an act  
22 of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or  
23 real estate licensee to conduct professional real estate activity, without regard to whether the  
24 act or conduct occurred in the course of professional real estate activity.

25 1.22 In the above mentioned actions Alcantara did the following: 1) created a  
26 reasonable probability of damage or injury to a person by making one or more material  
27 misrepresentations or false promises in a matter related to professional real estate activity; 2)  
28 demonstrated incompetence or untrustworthiness in performing any act for which a real estate  
29 licensee is required to hold a license; 3) committed an act of fraud or engaged in dishonest  
30 conduct substantially related to the fitness of the applicant or real estate licensee to conduct

1 professional real estate activity; and 4) engaged in conduct that is below the standard of care  
2 for the practice of professional real estate activity.

3 **(5) Violation:** ORS 696.301(1),(12),(14), and (15) (2015 Edition) which states a licensee's  
4 real estate license may be disciplined if they have: (1) (Created a reasonable probability of  
5 damage or injury to a person by making one or more material misrepresentation or false  
6 promises in a matter related to professional real estate activity); (12) (Demonstrated  
7 incompetence or untrustworthiness in performing any act for which the real estate licensee is  
8 required to hold a license.); (14) (Committed an act of fraud or engaged in dishonest conduct  
9 substantially related to the fitness of the applicant or real estate licensee to conduct  
10 professional real estate activity, without regard to whether the act or conduct occurred in the  
11 course of professional real estate activity);and (15) (Engaged in any conduct that is below the  
12 standard of care for the practice of professional real estate activity in Oregon as established by  
13 the community of individuals engaged in the practice of professional real estate activity in  
14 Oregon.).

15  
16 2.

17 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.  
18 Based on these violations a suspension is appropriate for violations of ORS 696.301(1),(12),  
19 (14) and (15).

20 2.2 A suspension of Alcantara's real estate license is appropriate under ORS  
21 696.396(2)(c)(A),(B),and (C). According to ORS 696.396(2)(c)(A),(B), and (C), the Agency  
22 may suspend a real estate license if the material facts establish a violation of a ground for  
23 discipline under ORS 696.301 that: (A) results in significant damage or injury; (B) exhibits  
24 incompetence in the performance of professional real estate activity; or (C) exhibits  
25 dishonesty or fraudulent conduct.

26 2.3 The Agency reserves the right to investigate and pursue additional complaints  
27 that may be received in the future regarding this licensee.

28 2.4 In establishing the violations alleged above, OREA may rely on one or more of  
29 the definitions contained in ORS 696.010.

30 2.5 According to ORS 696.775, the lapsing, expiration, revocation or suspension of a  
real estate license, whether by operation of law, order of the Real Estate Commissioner or

1 decision of a court of law, or the inactive status of the license, or voluntary surrender of the  
2 license by the real estate licensee does not deprive the commissioner of jurisdiction to: (1)  
3 proceed with an investigation of the licensee; (2) conduct disciplinary proceedings relating to  
4 the licensee; (3) Take action against a licensee, including assessment of a civil penalty against  
5 the licensee for a violation of ORS 696.020(2); or (4) revise or render null and void an order  
6 suspending or revoking a license.

7  
8 **STIPULATION & WAIVER**

9 I have read and reviewed the above findings of fact and conclusions of law which have  
10 been submitted to me by the Agency and further, the order which follows hereafter. I  
11 understand that the findings of fact, conclusions of law and this stipulation and waiver embody  
12 the full and complete agreement and stipulation between the Agency and me. I further  
13 understand that if I do not agree with this stipulation I have the right to request a hearing on  
14 this matter and to be represented by legal counsel at such a hearing. Hearings are conducted  
15 in accordance with the procedures set forth in ORS Chapter 183 and in accordance with the  
16 Rules of Practice and Procedure adopted by the Attorney General of the State of Oregon. I  
17 freely and voluntarily waive my rights to a hearing, to representation by legal counsel at such a  
18 hearing, and to judicial review of this matter.

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

24 I agree once the Commissioner executes this stipulated order, I will accept service of  
25 the final order by email, and hereby waive the right to challenge the validity of service.

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ORDER

IT IS HEREBY ORDERED that Alcantara’s principal broker’s license is hereby surrendered.

IT IS HEREBY ORDERED that Alcantara be issued a real estate broker’s license (Provided she has completed the broker application, paid the broker licensing fee, and had her supervising principal broker associate her license with the registered business name. This must be completed prior to the start of the suspension) with limitations as set forth below:

(a) The limited license period shall be for 2 years starting from the date the 90 day suspension is lifted on January 20, 2021.

(b) Alcantara shall not be convicted of any felony or misdemeanor during the limited license term;

(c) Alcantara shall not violate any license law or rule during the limited license term:

(d) Alcantara shall be required to give a copy of this Order to any principal broker through whom Alcantara is licensed during the limited license term, prior to licensing, and the principal broker shall acknowledge receiving a copy of this Order in writing to the Agency;

(e) The employing principal broker shall immediately notify the Agency of any criminal convictions or license law violations by Alcantara during the limited license term, and

(f) The restrictions shall continue until Alcantara (1) requests an unrestricted license, in writing, and (2) Alcantara’s principal broker endorses her for an unrestricted license in writing. The Agency will conduct an inquiry on Alcantara including but not limited to a check through the Law Enforcement Data System. If the Agency finds that there is no reason to continue the limited license, an unrestricted license will be issued.

IT IS FURTHER ORDERED that, should Alcantara violate any term or condition of this Order, it may be a basis on which to revoke Alcantara’s license in accordance with ORS 696.301(13).

IT IS FURTHER ORDERED that Alcantara’s limited broker license be suspended for 90 days, to be effective starting October 22, 2020 and continue through January 19, 2021.

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PRINCIPAL BROKER'S ACCEPTANCE

I hereby accept and agree to abide by the foregoing, and acknowledge that I have received a copy of this Order on 10/07/2020

DocuSigned by:  
Heather Filbert  
913592858D6F413...

Employing Principal Broker's Signature  
Employing Principal Broker: Heather A. Filbert  
License No: 201206474

IT IS SO STIPULATED:

DocuSigned by:  
Elisha Alcantara  
3DDCAB043948457...  
ELISHA ANN ALCANTARA

Date 10/7/2020 | 9:24 AM PDT

IT IS SO ORDERED:



DocuSigned by:  
Steven Strobe  
D141D267DDE14A0...  
STEVEN STRODE

Real Estate Commissioner  
Date 10/7/2020 | 12:52 PM PDT

Date of Service: 10/07/2020