

REAL ESTATE AGENCY  
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of

SANDRA LENA CHASE

}  
} FINAL ORDER BY DEFAULT  
}

**PROCEDURAL HISTORY**

1.

1.1 On April 16, 2020, the Real Estate Commissioner issued, by certified mail, a *Notice of Intent to Revoke License No 200704279 and to Assess a Civil Penalty*. The Oregon Real Estate Agency (Agency) sent the Notice of Intent to Sandra Lena Chase's (Chase) last known address of record with the Agency (38862 Deer Creek Rd., Baker City, OR 97814) and a second possible address for Chase (PO Box 370 Sumpter, OR 97877). The Notice of Intent was also mailed to Chase by regular first class mail in a handwritten envelope to both addresses. The Notice was also emailed to Chase at her email address of record.

1.2 None of the mailings of the Notice of Intent have been returned to the Agency.

1.3 Over twenty (20) days have elapsed since the mailing of the notice issued in this matter and no written request for hearing has been received.

2.

Based upon the foregoing and upon a review of the above described investigation reports, documents and files, the Real Estate Commissioner finds:

2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is properly served when deposited in the United States mail, registered or certified mail, addressed to the real estate licensee or to any other person having an interest in a proceeding before the Commissioner at the licensee's or other person's last known address of record with the Agency.

2.2 Chase's last known address of record with the Agency was 38862 Deer Creek Rd. Baker City, OR 97814. An additional address the Agency had for Chase is: PO Box 370 Sumpter, OR 97877.

2.3 A certified mailing of the Notice of Intent was mailed to Chase at her last known address of record (38862 Deer Creek) on April 16, 2020, it was also mailed certified to the additional address for Chase (PO Box 370).

2.4 The Notice of Intent was mailed regular first class mail in a handwritten envelope to Chase's address of record (38862 Deer Creek) and the additional address for Chase (PO Box 370) on April 16, 2020. The mailings in the handwritten envelope have not been returned to the Agency. In accordance with ORS 40.135(1)(q), there is a presumption that the mailing properly addressed and placed with the U.S. Postal Service was delivered. That presumption has not been overcome by any evidence.

2.5 Over twenty (20) days have elapsed since the mailing of the notice and no written request for a hearing has been received.

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

2.7 As noted in paragraph 7 of the *Notice of Intent to Revoke License No. 200704279 and Assess a Civil Penalty*, the Agency's entire investigation file was designated as the record for purposes of presenting a *prima facie* case upon default, including submissions from Respondent and all information in the administrative file relating to the mailing of notices and any responses received.

### 3.

Based upon the foregoing and upon a review of the above described investigation reports, documents and files, the Real Estate Commissioner finds:

## **FINDINGS OF FACT**

3.1 Chase was licensed as a principal broker doing business under Rustic Realty. On January 1, 2019, Chase's registered business name Rustic Realty expired, causing her real estate license to become inactive. On April 23, 2019, Chase renewed her business name, Rustic Realty, with the Agency and her real estate license became active again. On February 1, 2020, Chase's principal broker license expired from failing to renew and it remains expired.

3.2 Throughout October 2018, the Agency received two complaints against Chase, one from the Julie McKinney (McKinney), the city Recorder for Sumpter, OR, the other was from property owner, Edward Yaneshek (Yaneshek).

3.3 Yaneshek owned property in Sumpter located at 844 N. Cracker Street (N. Cracker). Yaneshek resided in CA and would occasionally travel and stay at N. Cracker.

3.4 Yaneshek and Chase met several years ago, when he walked into Rustic Realty to discuss listing N. Cracker for sale. When Yaneshek decided to list the property, he did not sign a listing agreement with Chase.

3.5 Chase put up "For Sale" signs on N. Cracker, and made a flyer advertising the property. Chase claimed during the investigation she called Yaneshek and requested him to come to Sumpter to sign the paperwork but he never did. Chase failed to mail a listing agreement to Yaneshek.

3.6 After about N. Cracker was two years on the market Chase verbally offered to purchase N. Cracker from Yaneshek. Chase removed the "For Sale" signs and stopped advertising. According to Chase she had until December 31, 2017, to purchase N. Cracker. Chase did not mail a real estate purchase agreement to Yaneshek.

3.7 Chase rented N. Cracker out to two different tenants for a total of 6 months between timeframes of May- October 2017. Chase did not have any tenant agreements, nor did she sign a property management agreement with Yaneshek.

3.8 Chase alleged during the investigation Yaneshek didn't want to rent out N. Cracker himself, but because she was going to buy it, he said it was ok.

3.9 Yaneshek stated during the investigation, he was adamant he told Chase no tenants. Yaneshek was initially unaware that Chase had rented N. Cracker to tenants finding out only around September or October 2017.

3.10 Chase rented N. Cracker for approximately \$450.00 a month and the first tenant was there, approximately 4-5 months, and the second tenant, only 1-2 months. Chase received the rental income and none of it was passed on to Yaneshek.

3.11 Yaneshek sued Chase for lost rent, repairs for damages caused by the tenants, personal property conversion, and attorney fees. Chase defaulted, and a General Judgement and Money Award dated March 12, 2018, was issued against Chase for \$34,000.

3.12 Chase admitted she had failed to report the adverse decision to the Agency because she was unaware she needed to.

3.13 On June 14, 2018, Rustic Realty's Oregon Secretary of State business registry expired.

3.14 On December 20, 2018, the Agency sent an email to the email address of record to Rustic Realty LLC about the upcoming renewal deadline. Another email was sent on January 1, 2019 and January 2, 2019, to the email address of record for Chase notifying her that her license was inactive. Chase had lost access to her website and her email.

3.15 On May 30, 2015, Chase listed 340 S. Mill St. Sumpter OR (340 Mill St.) on RMLS representing the seller, Scott Parkhurst (Parkhurst).

3.16 The sales agreement for 340 Mill St. is dated July 11, 2018, shows Chase representing herself as the buyer, and representing the seller, Parkhurst. Chase signed the agreement, "Sandra L. Chase and/or assigns."

3.17 The first addendum (Addendum 1) is dated August 1, 2018, assigns Dawna Gentry (Gentry) as the buyer. This addendum is signed by Chase, Gentry and Parkhurst. The second addendum (Addendum 2) is dated August 29, 2018, extends closing on or before May 1, 2019. This addendum is signed by Gentry and Parkhurst. The third Addendum (Addendum 3) is dated May 16, 2019, extends closing to on or before May 17, 2019, and is signed by Gentry and Parkhurst. There is a fourth addendum, but it is not signed or dated.

3.18 As of May 6, 2019, Chase had recently moved her business to the 340 Mill St and was operating from that location. Chase informed OREA Financial Investigator/Auditor

Meghan Lewis that 340 S. Mill was her new office location. Chase identified 340 S. Mill St as her main office address in Agency records.

3.19 In the investigation Parkhurst stated he did not allow Chase to lease the property (340 Mill St). He did state he gave her permission to store things in the shed out back but did not give her permission to use the space as a residence or office. Chase did not pay any rent to Parkhurst.

3.20 On January 1, 2019, Chase's registered business name Rustic Realty expired, causing her real estate license to become inactive. Chase conducted professional real estate activity from January 1, 2019 through April 22, 2019, while her license was inactive.

3.21 Chase had the following listings which continued on during the timeframe her license was expired:

- RMLS# 15321757, Tax Lots 2114, 2115, 2116
- RMLS# 12160548, Red Boy Rd., Granite
- RMLS# 12289238, Main St., Granite
- RMLS# 17564237, Tax Lot 111, Sumpter
- RMLS# 17461791, 428 Mill St., Sumpter
- RMLS# 12682706, Tax Lot 3200, Sumpter
- RMLS# 13494024, Tax Lot 202, Sumpter
- RMLS# 18513861, 384 W. High St., Sumpter
- RMLS# 15025257, 340 S. Mill St., Sumpter.

3.22 Additionally, Chase was involved in a real estate transaction regarding 650 Sumpter Hwy. Chase was the listing agent on the property. On March 19, 2019, Chase presented an offer to property owner Michael Schindele (while her license was inactive). RMLS shows a sold date of April 22, 2019, on the property.

## STATEMENT OF LAW

1. ORS 696.301(3) as it incorporates:

a. ORS 696.020(2) (2017 Edition) ORS 696.020(2) states individual may not engage in, carry on, advertise or purport to engage in or carry on professional real estate activity, or act in the capacity of a real estate licensee, within this state unless the individual holds an active license as provided for in this chapter.

b. ORS 696.805(2)(a)(3)(a)(c)(2017 Edition) which states, (2) A seller's agent owes the seller, other principals and the principals' agents involved in a real estate transaction the following affirmative duties: (a) To deal honestly and in good faith. (3) A seller's agent owes the seller involved in a real estate transaction the following affirmative duties: (a) To exercise reasonable care and diligence; (c) To be loyal to the seller by not taking action that is adverse or detrimental to the seller's interest in a transaction.

c. 696.805(3)(a)(c)(2015 Edition), which states, (3) A seller's agent owes the seller involved in a real estate transaction the following duties: (a) To exercise reasonable care and diligence; (c) To be loyal to the seller by not taking action that is adverse or detrimental to the seller's interest in a transaction. Chase also violated ORS 696.301(12) which states the a licensee's real estate license may be disciplined if they have demonstrated incompetence or untrustworthiness in performing any act for which the real estate licensee is required to hold a license.

d. 696.805(3)(c)(2015 Edition), which states, (3) A seller's agent owes the seller involved in a real estate transaction the following affirmative duties; (c) To be loyal to the seller by not taking action that is adverse or detrimental to the seller's interest in a transaction.

2. ORS 696.301(12) and (14) (2015 Edition) which states a licensee's real estate license may be disciplined if they have (12) Demonstrated incompetence or untrustworthiness in performing any act for which the real estate licensee is required to hold a license; (14) Committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or real estate licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity.

3. ORS 696.301(3) as it incorporates:

a. OAR 863-014-0062(1) (1-1-2018 Edition), which states, each active, inactive, and expired real estate licensee must maintain on file with the Agency a current mailing address and email address and notify the Agency within 10 calendar days of a change to a mailing or email address.

b. OAR 863-014-0095(1)(1-1-2018 Edition), which requires, a licensee to maintain the registered business name in active status with the Oregon Secretary of State's Corporation Division for any name other than the licensee's legal name.

c. OAR 863-015-0125(2)(e)(5-15-14 and 11-15-16 Editions), which states, (2) Advertising by a licensee, in process and in substance, must: (e) Be done only with the written permission of the property owner(s) or owner(s') authorized agent.

d. OAR 863-015-0130(1)(2)(a)(b)(c)(d)(5-15-14 and 11-15-16 Editions) which states: (1) A real estate broker or principal broker who enters into a listing agreement, as defined by ORS 696.800, must give the seller signing the listing agreement a true, legible copy of the signed listing agreement at the time of securing the listing; (2) Every listing agreement must meet the following requirements; (a) It must state an expiration date; (b) It may not contain a provision requiring the seller to notify the licensee of the individual's intention to cancel the listing after the stated, definite expiration date; (c) It may not contain a provision subjecting the seller of the listed property to the payment of two or more commissions for one sale if the seller lists the same property with a second or subsequent real estate broker or principal broker after the first or preceding listing agreement expires or is terminated by mutual agreement; and (d) It must be signed by all parties to the agreement.

e. OAR 863-015-0175(1)(b)(c)(4) (1-1-2018 Edition), which states, (1) A real estate licensee must notify the Commissioner of the following (b) Any adverse decision or judgment resulting from any civil or criminal suit or action or arbitration proceeding or any administrative or Oregon State Bar proceeding related to the licensee in which the licensee was named as a party and against whom allegations concerning any business conduct or professional real estate activity is asserted; and (c) Any adverse decision or judgment resulting from any other criminal or civil proceeding that reflects adversely on the "trustworthy and competent" requirements contained in ORS Chapter 696 and its implementing rules. (4) The notification

required by this rule must be made within twenty 20 calendar days after receiving written notification of an adverse judgment, award, or decision described in this rule. Notification must be made under this rule whether or not the decision is appealed.

### **ULTIMATE FINDINGS OF FACT**

1. Chase failed to obtain a written listing agreement with property owner, Yaneshek, for N. Cracker.
2. Chase failed to obtain Yaneshek's written permission to advertise his real estate for sale.
3. Chase failed to have a written sales agreement in place with Yaneshek regarding her intended purchase of N. Cracker Street.
4. Chase rented N. Cracker out to tenants and kept all rental income, without Yaneshek's knowledge.
5. Chase failed to report the March 12, 2018, judgement within 20 days to the Agency.
6. Chase failed to maintain an active business name registered with the Oregon Secretary of State.
7. Chase failed to maintain a current email address on file with the Agency.
8. Chase moved her office location to 340 S. Mill St. without having the property owner's permission to use their property either as a residence or office.
9. Despite having an inactive real estate license from January 1, 2019, through April 22, 2019, Chase continued to perform professional real estate activity, evidenced by nine real estate listings and one real estate sale transaction (10 separate occurrences).

### **CONCLUSIONS OF LAW**

1. Pursuant to ORS 183.417(4) and OAR 137-003-0670 Chase is in default.
2. The material facts establish violations of a ground for discipline under ORS 696.301 as set forth in the *Notice of Intent to Revoke License No. 200704279 and Access a Civil Penalty*. ORS 696.396(2)(c)(B) and (C).

3. Based on these violations, the Agency may revoke Chase's principal broker license.
4. Specifically, Chase is subject to discipline pursuant to ORS 696.301(3), (12) and (14). A revocation of Chase's principal broker license is appropriate for violations of ORS 696.301(3), (12) and (14). ORS 696.301(3), (12) and (14) which states in part a licensee's real estate license may be disciplined if they have: (3) disregarding or violating any provision of ORS 659A.421, 969.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of the Real Estate Agency; (12) demonstrating incompetence or untrustworthiness in performing any act for which the real estate licensee is required to hold a license; (14) committing an act of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or real estate licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity.
5. A revocation of Chase's principal broker license is appropriate under ORS 696.396(2)(c)(B) and (C). According to ORS 696.396(2)(c)(B) and (C) the Agency may revoke a real estate licensee if the material facts establish a violation of a ground for discipline under ORS 696.301 that exhibits incompetence in the performance of professional real estate activity or exhibits dishonesty or fraudulent conduct.
6. The *Notice of Intent to Revoke License No. 200704279 and Assess a Civil Penalty* also established grounds to assess a civil penalty pursuant to ORS 696.990(4)(a) and (b) for violations of ORS 696.020(2), and based on these violations, the Agency may assess a civil penalty against Chase.
7. Based on the evidence in the record, the preponderance of the evidence weighs in favor of the revocation of Chase's principal broker license and assessing a \$9,500.00 civil penalty for the professional real estate activity done while her license was inactive.
8. The Agency may, therefore, revoke Chase's principal broker license. The Agency may also assess a civil penalty in the amount of \$9,500.00.
9. Pursuant to ORS 696.775, the expiration of Chase's license does not prohibit the Commissioner from proceeding with this, or further, action.

## OPINION

The Agency takes its consumer protection role very seriously. Chase's actions as documented herein constituted multiple violations of Agency statutes and rules. Most importantly, Chase's dishonest actions of renting out a property owned by another to two different sets of tenants, without the owner's permission and keeping all rent proceeds is a violation of the law. Moreover, Chase moved her business office into a separate property without the owner's knowledge or permission. Chase took advantage of two different sellers and enjoyed economic gain from her actions demonstrating incompetence or untrustworthiness and she committed an act of fraud or dishonest conduct.

The specific violations are repeated here below:

- (1) By failing to obtain a written listing agreement with property owner, Yaneshek, for N. Cracker, Chase violated ORS 696.301(3) as it incorporates OAR 863-015-0130(1)(2)(a)(b)(c)(d)(5-15-14 and 11-15-16 Editions) which states: (1) A real estate broker or principal broker who enters into a listing agreement, as defined by ORS 696.800, must give the seller signing the listing agreement a true, legible copy of the signed listing agreement at the time of securing the listing; (2) Every listing agreement must meet the following requirements; (a) It must state an expiration date; (b) It may not contain a provision requiring the seller to notify the licensee of the individual's intention to cancel the listing after the stated, definite expiration date; (c) It may not contain a provision subjecting the seller of the listed property to the payment of two or more commissions for one sale if the seller lists the same property with a second or subsequent real estate broker or principal broker after the first or preceding listing agreement expires or is terminated by mutual agreement; and (d) It must be signed by all parties to the agreement.
- (2) By failing to obtain Yaneshek's written permission to advertise his real estate for sale Chase violated ORS 696.301(3) as it incorporates OAR 863-015-0125(2)(e)(5-15-14 and 11-15-16 Editions), which states, (2) Advertising by a licensee, in process and in substance, must: (e) Be done only with the written permission of the property owner(s) or owner(s') authorized agent.

(3) Chase failed to have a written sales agreement in place with Yaneshek regarding her intended purchase of N. Cracker Street, which violated ORS 696.301(3) as it incorporates 696.805(3)(a)(c)(2015 Edition), which states, (3) A seller's agent owes the seller involved in a real estate transaction the following duties: (a) To exercise reasonable care and diligence; (c) To be loyal to the seller by not taking action that is adverse or detrimental to the seller's interest in a transaction. Chase also violated ORS 696.301(12) which states the a licensee's real estate license may be disciplined if they have demonstrated incompetence or untrustworthiness in performing any act for which the real estate licensee is required to hold a license.

(4) By renting N. Cracker out to tenants and keeping all rental income, without Yaneshek's knowledge, Chase violated ORS 696.301(3) as it incorporates ORS 696.805(3)(c)(2015 Edition), which states, (3) A seller's agent owes the seller involved in a real estate transaction the following affirmative duties; (c) To be loyal to the seller by not taking action that is adverse or detrimental to the seller's interest in a transaction. Additionally, Chase violated ORS 696.301(12) and (14)(2015 Edition) which states a licensee's real estate license may be disciplined if they have (12) Demonstrated incompetence or untrustworthiness in performing any act for which the real estate licensee is required to hold a license; (14) Committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or real estate licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity.

(5) By failing to report the March 12, 2018, judgement within 20 days to the Agency Chase violated ORS 696.301(3) as it incorporates OAR 863-015-0175(1)(b)(c)(4) (1-1-2018 Edition), which states, (1) A real estate licensee must notify the Commissioner of the following (b) Any adverse decision or judgment resulting from any civil or criminal suit or action or arbitration proceeding or any administrative or Oregon State Bar proceeding related to the licensee in which the licensee was named as a party and against whom allegations concerning any business conduct or professional real estate activity is asserted; and (c) Any adverse decision or judgment resulting from any other criminal or civil proceeding that reflects adversely on the "trustworthy and competent" requirements contained in ORS Chapter 696 and its implementing rules. (4) The notification required by this rule must be made within twenty 20 calendar days

after receiving written notification of an adverse judgment, award, or decision described in this rule. Notification must be made under this rule whether or not the decision is appealed.

(6) By failing to maintain an active business name registered with the Oregon Secretary of State, Chase violated ORS 696.301(3) as it incorporates OAR 863-014-0095(1)(1-1-2018 Edition), which requires, a licensee to maintain the registered business name in active status with the Oregon Secretary of State's Corporation Division for any name other than the licensee's legal name.

(7) By failing to maintain a current email address on file with the Agency, Chase violated ORS 696.301(3) as it incorporates OAR 863-014-0062(1) (1-1-2018 Edition), which states, each active, inactive, and expired real estate licensee must maintain on file with the Agency a current mailing address and email address and notify the Agency within 10 calendar days of a change to a mailing or email address.

(8) By moving her office location to 340 S. Mill St. without having the property owner's permission to use their property either as a residence or office Chase violated ORS 696.301(3) as it incorporates ORS 696.805(2)(a)(3)(a)(c)(2017 Edition) which states, (2) A seller's agent owes the seller, other principals and the principals' agents involved in a real estate transaction the following affirmative duties: (a) To deal honestly and in good faith. (3) A seller's agent owes the seller involved in a real estate transaction the following affirmative duties: (a) To exercise reasonable care and diligence; (c) To be loyal to the seller by not taking action that is adverse or detrimental to the seller's interest in a transaction. Additionally Chase violated ORS 696.301(12)(14)(2015 Edition), which states a licensee's real estate license may be disciplined if they have (12) Demonstrated incompetence or untrustworthiness in performing any act for which the real estate licensee is required to hold a license; and (14) Committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or real estate licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity.

(9) Despite having an inactive real estate license from January 1, 2019, through April 22, 2019, records show Chase continued to perform professional real estate activity, evidenced by nine real estate listings and one real estate sale transaction (10 separate occurrences) in violation of ORS 696.020(2) (2017 Edition) ORS 696.020(2) states individual may not engage

in, carry on, advertise or purport to engage in or carry on professional real estate activity, or act in the capacity of a real estate licensee, within this state unless the individual holds an active license as provided for in this chapter.

ORDER

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

IT IS FURTHER ORDERED that, pursuant to ORS 696.990(4)(a) and (b) and based upon the violation set forth above for engaging in professional real estate activity while her license was inactive, Chase pay a civil penalty of \$9,500.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to OREA.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

*OREGON REAL ESTATE AGENCY*

\_\_\_\_\_  
Steven Strobe  
Real Estate Commissioner

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