

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of)
GEOFFREY MICHAEL GROENER) STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Geoffrey Michael Groener (Groener) do hereby agree and stipulate to the following:

FINDINGS OF FACT
&
CONCLUSIONS OF LAW

1.

1.1 At all times mentioned herein, Groener was licensed as a real estate broker with Cascade Sotheby’s International Realty.

1.2 In May 2019, the Agency received a complaint from Ronald Ford and Sylvia Avenius-Ford (Fords) against Groener and the Agency opened an investigation.

1.3 On March 21, 2012, Groener and Ashley Maxwell, purchased 1221 NW West Hills Ave., in Bend Oregon, located in the West Hills Subdivision. When escrow was opened, Groener was emailed a copy of the CC&R’s pertaining to the sale.

1.4 Groener contacted Oscar Sarabia (Sarabia), owner of a vacant lot adjacent to his home to see if he would be willing to sell.

1.5 On January 25, 2016, Groener entered into a listing agreement with Sarabia, to sell Lot 2 West Hills Ave (property), a vacant lot in the West Hills Subdivision in Bend, OR.

1.6 The marketing remarks stated in part, “Nice gradual slope for easy build, great southern exposure, close to 40 acre Hillside Park.” And “Mature trees and sun abound on this 8,700 sq. ft. home site. Bring your plans and build your dream home in this predominately hip Mid-Century neighborhood.”

1 1.7 Groener said he filed out the listing and sent it to Sarabia to sign since he lived
2 out of state. The “no” box was marked for CC&R’s and the marketing remarks in the listing,
3 signed by Sarabia, were blank. According to Groener’s disposition, he filled out the listing
4 agreement and then went over everything line by line with Sarabia.

5 1.8 On September 19, 2016, Groener prepared an offer to purchase the property for
6 the Fords under a disclosed limited agency agreement. Ronald Ford stated they were moving
7 to Bend from New Mexico. They began working with a builder, Bart Mitchell who introduced
8 them to Groener and suggested they look at his listing.

9 1.9 Ronald Ford remembered discussing the buildability of the property at great
10 length since the lot was small and had a panhandle protruding into the property next door.
11 There was discussion about how the original lot was re-platted to create a second buildable lot.
12 Groener explained to the Fords the city required 90 feet of street frontage- hence the reason
13 for the panhandle. According to Robert Ford, when they were viewing the lot, he was
14 surprised to learn, from Groener, that there were no CC&Rs. Groener reassured the Fords
15 again and again there were no building restrictions.

16 1.10 According to Groener, when he bought his house, it was marketed as not having
17 any CC&R’s and he continued to assume and trust this information.

18 1.11 Groener admitted he did not do any research on the property before listing it for
19 sale, other than speaking to the seller, who had plans to build on the property- this only
20 confirming to him there were no building restrictions. Groener did not check with the county or
21 city to verify if there were any other building restrictions on the property.

22 **(1) Violation:** By implying, in the listing, that the property was free of building restrictions
23 and CC&R’s without first confirming the accuracy of this information, Groener violated ORS
24 696.301(3) as it incorporates ORS 696.805(3)(a) and (e) (2017 Edition) and OAR 863-015-
25 0125(2)(b) (1/01/2018 Edition). Per ORS 696.805(3)(a) and (e): A seller’s agent owes the
26 seller involved in a real estate transaction the following affirmative duties: (a) to exercise
27 reasonable care and diligence; (e) to advise the seller to seek expert advice on matters related
28 to the transaction that are beyond the agent’s expertise. Per OAR 863-015-0125(2)(b): (2)
29 advertising by a licensee, in process and substance must: (b) be truthful and not deceptive or
30 misleading. Groener also violated ORS 696.301(1) and (12) (2017 Edition) which state a

1 licensee's real estate license may be disciplined if they have: (1) created a reasonable
2 probability of damage or injury to a person by making one or more material misrepresentations
3 or false promises in a matter related to professional real estate activity; (12) demonstrated
4 incompetence or untrustworthiness in performing any act for which the real estate license is
5 required to hold a license.

6 **(2) Violation:** By advising the Fords that there were no building restrictions or CC&R's for
7 the property, Groener violated ORS 696.301(3) as it incorporates ORS 696.810(3)(a) and (e)
8 (2017 Edition), which states: (3) A buyers' agent owes the buyer involved in a real estate
9 transaction the following affirmative duties: (a) to exercise reasonable care and diligence; (e)
10 and to advise the buyer to seek expert advice on matters related to the transaction that are
11 beyond the agent's expertise. Groener also violated ORS 696.301(1) and (12) (2017 Edition),
12 which state a licensee's real estate license may be disciplined if they have: (1) created a
13 reasonable probability of damage or injury to a person by making one or more material
14 misrepresentations or false promises in a matter related to professional real estate activity;
15 (12) demonstrated incompetence or untrustworthiness in performing any act for which the real
16 estate license is required to hold a license.

17 1.12 On September 26, 2016, First American Title, issued a preliminary title report-
18 Groener, Sarabia and the Fords received a copy. Page 3 of the report, item number 9 listed
19 the various recorded information for the CC&Rs related to the property. After the transaction
20 closed, the Fords received a full preliminary title report containing documents not included in
21 the electronic version, including a copy of the West Hills Subdivision's CC&Rs.

22 1.13 The CC&R's noted in part the following: "No residence shall be constructed on
23 any area of land which is not at least 90 feet wide along the street frontage and the full depth
24 of the lot or lots as plotted."

25 1.14 The lot had the required 90-foot street frontage, but the 90 feet did not extend to
26 the full depth of the lot.

27 1.15 The matter was submitted to binding arbitration. The Arbitrator found for the
28 Fords on all three counts of their Statements of Claim. On May 17, 2019, a satisfaction of
29 judgement was recorded in Deschutes County for \$287,497.28 in favor of the Fords. Groener
30 failed to notify the Agency regarding the adverse decision. Groener stated he was not aware

1 he was required to notify the Agency.

2 **(3) Violation:** By failing to notify the Agency of the adverse arbitration judgment, Groener
3 violated ORS 696.301(3) as it incorporates OAR 863-015-0175(1)(b) and (4) (1/01/2018
4 Edition), which requires (1) A real estate licensee must notify the Commissioner of the
5 following: (b) any adverse decision or judgment resulting from any civil or criminal suit or action
6 or arbitration proceeding or any administrative or Oregon State Bar proceeding relating to the
7 licensee in which the licensee was named as a party and against whom allegations concerning
8 any business conduct or professional real estate activity is asserted; (4) the notification
9 required by this rule must be made within twenty 20 calendar days after receiving written
10 notification of an adverse judgment, award, or decision described in this rule. Notification must
11 be made under this rule whether or not the decision is appealed.

12 1.16 Violations 1 and 2 noted above demonstrate conduct below the standard of care
13 for the practice of professional real estate activity.

14 **(4) Violation:** ORS 696.301(15) (2017 Edition) which states a licensee's real estate license
15 may be disciplined if they have engaged in any conduct that is below the standard of care for
16 the practice of professional real estate activity in Oregon as established by the community of
17 individuals engaged in the practice of professional real estate activity in Oregon.

18
19 2.

20 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.
21 Based on these violations a reprimand is appropriate for violations of ORS 696.301(1),(3),(12)
22 and (15).

23 2.2 The Agency reserves the right to investigate and pursue additional complaints
24 that may be received in the future regarding this licensee.

25 2.3 In establishing the violations alleged above, OREA may rely on one or more of
26 the definitions contained in ORS 696.010.

27 2.4 According to ORS 696.775, the lapsing, expiration, revocation or suspension of a
28 real estate license, whether by operation of law, order of the Real Estate Commissioner or
29 decision of a court of law, or the inactive status of the license, or voluntary surrender of the
30 license by the real estate licensee does not deprive the commissioner of jurisdiction to: (1)

1 proceed with an investigation of the licensee; (2) conduct disciplinary proceedings relating to
2 the licensee; (3) Take action against a licensee, including assessment of a civil penalty against
3 the licensee for a violation of ORS 696.020(2); or (4) revise or render null and void an order
4 suspending or revoking a license.

5
6 **STIPULATION & WAIVER**

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

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

22 I agree once the Commissioner executes this stipulated order, I will accept service of
23 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 the broker license of Geoffrey Michael Groener be, and hereby is reprimanded.

IT IS SO STIPULATED:

IT IS SO ORDERED:



DocuSigned by:
Geoff Groener
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GEOFFREY MICHAEL GROENER

DocuSigned by:
Steven Strode
D141D267DDE14A0
STEVEN STRODE

Real Estate Commissioner

Date 9/11/2020 | 1:15 PM PDT

Date 9/14/2020 | 8:39 AM PDT

Date of Service: 09/14/2020