

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of

MATTHEW A. TOMKO

STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Matthew A. Tomko (Tomko) do hereby agree and stipulate to the following:

FINDINGS OF FACT

&

CONCLUSIONS OF LAW

1.

1.1 On November 20, 2018, Tomko’s broker license was associated with Keller Williams Capital City. Between January 1, 2019, and February 27, 2020, Tomko was part of the Colleen Benson Homes Team (Team) at Keller Williams Capital City.

1.2 On March 16, 2020, Colleen Benson (Benson) filed a complaint against Tomko.

1.3 While Tomko was part of the Team, he had access to a network of leads in their CINC database.

1.4 On February 27, 2020, Tomko left Keller Williams Capital City and started working for BrightHome Real Estate Group.

1.5 Tomko and Benson agreed, as part of the Team’s employment agreement, that any contacts added to the Teams database from his pre-existing contact list would remain Tomko’s “property” upon the termination of the agreement.

1.6 After Tomko left Keller Williams Capital City, Benson became aware that some leads’ contact information had been altered in the Teams CINC database.

1.7 According to Tomko, there was no way to delete his sphere of influence (pre-existing contact list) in CINC. Tomko said, “I personally witnessed team members calling the

1 sphere of the former agents. There was no boundary as to who would be called, parents and
2 other family members were not off the table.”

3 1.8 Tomko admitted that before leaving Keller Williams Capital City, he transposed
4 the contact information of his sphere of influence to prevent remaining Team members from
5 calling them.

6 1.9 Benson claimed Tomko altered the contact information for client lead Jessica
7 Allen, who was outside his sphere of influence. When Tomoko was asked if he altered this
8 Team lead, he said he couldn't remember because he changed things “hastily” and couldn't be
9 sure if her information was altered.

10 **Violation:** By altering leads' contact information in the Team's CINC database Tomko
11 violated ORS 696.301(14) (2019 Edition) which states a licensee's real estate license may be
12 disciplined if they have committed an act of fraud or engaged in dishonest conduct
13 substantially related to the fitness of the applicant or real estate licensee to conduct
14 professional real estate activity, without regard to whether the act or conduct occurred in the
15 course of professional real estate activity.

16 2.

17 2.1 The foregoing violation is grounds for discipline pursuant to ORS 696.301.
18 Based on this violation a reprimand is appropriate for violations of ORS 696.301(14).

19 2.2 The Agency reserves the right to investigate and pursue additional complaints
20 that may be received in the future regarding this licensee.

21 2.3 In establishing the violations alleged above, OREA may rely on one or more of
22 the definitions contained in ORS 696.010.

23 2.4 According to ORS 696.775, the lapsing, expiration, revocation or suspension of a
24 real estate license, whether by operation of law, order of the Real Estate Commissioner or
25 decision of a court of law, or the inactive status of the license, or voluntary surrender of the
26 license by the real estate licensee does not deprive the commissioner of jurisdiction to: (1)
27 proceed with an investigation of the licensee; (2) conduct disciplinary proceedings relating to
28 the licensee; (3) Take action against a licensee, including assessment of a civil penalty against
29 the licensee for a violation of ORS 696.020(2); or (4) revise or render null and void an order
30 suspending or revoking a license.

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.

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

ORDER

IT IS HEREBY ORDERED that the broker license of Matthew A. Tomko be, and hereby is reprimanded.

IT IS SO STIPULATED:

IT IS SO ORDERED:

DocuSigned by: Matthew A. Tomko
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MATTHEW A. TOMKO

DocuSigned by: Steven Strode
D141D267DDE544A0
STEVEN STRODE



Date 12/3/2020 | 1:46 PM PST

Date 12/3/2020 | 1:58 PM PST

Date of Service: 12/03/2020