

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of

MICHAEL E. ADLE

STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Michael E. Adle (Adle) do hereby agree and stipulate to the following:

FINDINGS OF FACT
&
CONCLUSIONS OF LAW

1.

1.1 At all times mentioned herein, Adle was licensed as a principal broker associated with Aperto Property Management LLC (Aperto).

1.2 In September 2019, the Agency notified Adle that clients' trust account ending in #5170 was randomly selected for a mandatory mail-in review. The mail-in review was closed with an Educational Letter of Advice and an investigation was opened.

1.3 Adle opened and maintained in Oregon, four "operating trust accounts" and four security deposit accounts that were not designated as clients' trust accounts. Adle did not notify the Agency of these accounts.

(1) Violation: By failing to properly designate the four "operating trust accounts" and four security deposits accounts as clients' trust accounts, and failing to timely notify the Agency of the accounts, Adle violated ORS 696.301(3) as it incorporates ORS 696.241(2) (2017 and 2019 Editions) and OAR 863-025-0025(3) (1-1-18, 1-1-19, and 1-1-20 Editions). ORS 696.241(2) requires a licensed real estate property manager or a principal real estate broker engaging in property management activity to open and maintain in this state, one or more separate federally insured bank accounts that are designated as a clients' trust account. Per

1 OAR 863-025-0025(3) within 10 business days from the date a clients' trust account is opened,
2 the property manager must notify the Agency using the online process established by the
3 Agency. The notification will include the information required in ORS 696.245, including a
4 copy of the completed and signed "Notice of Clients' Trust Account and Authorization to
5 Examine."

6 1.4 On November, 13, 2020, the Agency requested, through Adle's attorney, that
7 Adle provide reconciliation documents for clients' trust account ending in #3218 and security
8 deposits account ending in #3226 with a due date of November 20, 2020. Adle did not provide
9 the requested documents by the due date.

10 **(2) Violation:** By failing to provide the requested reconciliation documents for clients' trust
11 account ending in #3218 and security deposits account ending in #3218 by the requested due
12 date, Adle violated ORS 696.301(3) as it incorporates OAR 863-025-0035(2)(a)(c) (1-1-20
13 Edition) which states (2) a property manager must produce records required under section (1)
14 of this rule for inspection by the Agency as follows: (a) When the Agency makes a request for
15 production of property management records, the property manager must provide such records
16 within no less than five banking days; (c) failure to produce such records within the timelines
17 stated in subsection (a) or (b) of this section is a violation of ORS 696.301.

18 1.5 The October 2020 reconciliation for clients' trust account ending in #3218 lists
19 the total of ledgers in Part III with a balance of \$15,434.35 lower than the reconciled bank
20 balance (Part I) and the check register (Part II). The explanation written for the difference was:
21 "ACH-Management Fee (Clear next month) \$6,684.74; Payroll (Clear next month) \$8,749.61."

22 1.6 If the outstanding disbursements for the property management fee and payroll
23 were listed as outstanding checks for Part I and subtracted from the bank statement balance,
24 Part I would have shown a reconciled bank balance of \$200,326.48 which matched the ledger
25 (Part III) but still would have been \$15,434.35 less than the check register balance (Part II).

26 **(3) Violation:** The October 2020 reconciliation for the clients' trust account ending in
27 #3218 did not reflect the bank statement balance adjusted for outstanding receipts and
28 disbursements in Part I in violation of ORS 696.301(3) as it incorporates OAR 863-0025-
29 0028(2)(a)(A) (1-1-20 Edition) which states: (2) a property manager must reconcile each
30 clients' trust account within 30 calendar days of the date of the bank statement pursuant to the

1 requirements contained in this section. (a) The reconciliation must have three components that
2 are contained in a single reconciliation document: (A) the bank statement balance, adjusted for
3 outstanding checks and other reconciling bank items.

4 1.7 Supporting documents provided with the October 2020 reconciliation for clients'
5 trust account ending in #3218 did not include a chronological record of receipts and
6 disbursements with an account balance after each entry or a ledger which contained the
7 owners' names or the balance after each recorded entry.

8 **(4) Violation:** Adle did not provide a sufficient check register with his October 2020
9 reconciliation of the clients' trust account ending in #3218 in violation of ORS 696.301(3) as it
10 incorporates OAR 863-025-0040(1),(2)(e) (1-1-20 Edition) which states: (1) except as provided
11 in section (4) of this rule, a property manager must prepare and maintain a chronological
12 record of receipts and disbursements or a check register for each clients' trust account and
13 each security deposits account in which the manager must record each receipt of funds and
14 each disbursement of funds. (2) A record of receipts and disbursements or a check register
15 must contain at least the following information: (e) the account balance after each entry.

16 **(5) Violation:** Adle did not provide a sufficient owner ledger with his October 2020
17 reconciliation of the clients' trust account ending in #3218 in violation of ORS 696.301(3) as it
18 incorporates OAR 863-025-0055(1),(3)(a),(d) (1-1-20 Edition) which states: (1) a property
19 manager must prepare and maintain at least one separate owner's ledger for each property
20 management agreement, for all funds received and disbursed. (3) All owner ledgers must
21 contain at least the following information: (a) the owner's name and identifying code; (d) the
22 balance after each recorded entry.

23 1.8 During the investigation Alde described himself as the "designated broker," for
24 Aperto to do business in Oregon as a property management company. He described his daily
25 responsibilities to include compliance, informing Aperto of law changes and reviewing the
26 month end accounting done by the comptroller.

27 1.9 Adle stated, "People on the ground are designated to do marketing, showing
28 properties, leasing- the day to day property management stuff." When asked what he meant
29 by designated, Adle said they are designated to do property management work. Adle said per
30 the laws in real estate he can designate people to be property managers in Oregon. Adle

1 further said, "You authorize the corporation to do the business for you."

2 1.10 Per Adle, each of the Oregon properties had offices with usually two on-site
3 employees- managers and leasing agents. Adle said he did not interact with them. Initially,
4 Adle did not have any written delegations authorizing Aperto employees to perform certain
5 property management activities.

6 **(6) Violation:** Adle reported to the Agency that he authorized Aperto Property
7 Management LLC (Aperto) and employees of Aperto to conduct property management activity
8 without delegating authority to them in writing in violation of ORS 696.301(3) as it incorporates
9 ORS 696.026(7) and ORS 696.315(1),(2)(a) (2017 & 2019 Editions). ORS 696.026(7) states
10 only a principal real estate broker or licensed real estate property manager may control and
11 supervise the professional real estate activity conducted under the registered business name.
12 ORS 696.315(1),(2)(a) states: (1) except as provided in subsection (2) of this section, a real
13 estate licensee may not knowingly permit a nonlicensed individual to engage in professional
14 real estate activity, with or on behalf of the licensee. (2)(a) a principal real estate broker
15 engaging in the management of rental real estate or a licensed real estate property manager
16 may delegate to a person who is not licensed under this chapter the authority to conduct an
17 activity described in ORS 696.030(9). A delegation made under this paragraph must be in
18 writing.

19 **(7) Violation:** Adle reported on-site employees conducted property management activities
20 for the Oregon properties without interaction from him in violation of ORS 696.301(3) as it
21 incorporates ORS 696.026(7) and ORS 696.315(1)(2) (2017 and 2019 Editions) and OAR 863-
22 015-0140(3) (1-1-18, 1-1-19 and 1-1-20 Editions). ORS 696.026(7) states only a principal real
23 estate broker or licensed real estate property manager may control and supervise the
24 professional real estate activity conducted under the registered business name. ORS
25 696.315(1),(2)(a) states: (1) except as provided in subsection (2) of this section, a real estate
26 licensee may not knowingly permit a nonlicensed individual to engage in professional real
27 estate activity, with or on behalf of the licensee. (2)(a) a principal real estate broker engaging
28 in the management of rental real estate or a licensed real estate property manager may
29 delegate to a person who is not licensed under this chapter the authority to conduct an activity
30 described in ORS 696.030(9). A delegation made under this paragraph must be in writing.

1 OAR 863-015-0140(3) states a principal broker must supervise and control the professional
2 real estate activity at any main or branch office registered by the principal broker.

3 1.11 Per Adle, unlicensed employees of Aperto executed property management
4 agreements between Aperto and the owners of each of the Oregon properties. Adle had not
5 signed the property management agreements.

6 1.12 Adle provided a copy of a property management agreement for owner Cathedral
7 Gardens Partners, LP, which was executed on October 22, 2018, and was signed by Stephen
8 Whyte (authorized signatory for the owner) and Aperto manager Ed Quigley. With the
9 property management agreement was an addendum signed by Adle and back-dated to 2018,
10 which was not signed by the property owner.

11 **(8) Violation:** Adle allowed unlicensed Aperto employees to sign property management
12 agreements and Adle generated an addendum to the property management agreement, which
13 did not contain the signature of the property owner. This violates ORS 696.301(3) as it
14 incorporates ORS 696.315(1) and 696.890(3) (2017 and 2019 Editions) and OAR 863-025-
15 0020(1),(4) (1-1-18, 1-1-19, and 1-1-20 Editions). ORS 696.315(1) states: (1) except as
16 provided in subsection (2) of this section, a real estate licensee may not knowingly permit a
17 nonlicensed individual to engage in professional real estate activity, with or on behalf of the
18 licensee. ORS 696.890(3) states a real estate property manager may engage in the
19 management of rental real estate for an owner of rental real estate only pursuant to a property
20 management agreement. OAR 863-025-0020(1),(4) states (1) a property manager must not
21 engage in the management of rental real estate without a written unexpired property
22 management agreement between the owner and property manager. (4) Any amendment or
23 addendum to the property management agreement must be in writing and include the
24 identifying code, the date of the amendment, the signature of the property manager and the
25 signatures of all owners who signed the initial property management agreement.

26 1.13 Aperto Brokerage Policy and Procedures Manuals dated December 9, 2020 and
27 December 14, 2020 (revised) both contain statements that the property manager may delegate
28 authority to negotiate and sign property management agreements.

29 **(9) Violation:** The written policies for Aperto in place on December 9, 2020 and
30 December 14, 2020 both indicate the property manager could delegate authority to negotiate

1 and sign property management agreements in violation of ORS 696.301(3) as it incorporates
2 OAR 863-025-0020(6) (1-1-20 Edition) which states only a property manager may negotiate
3 and sign a property management agreement, except that a principal real estate broker
4 engaging in the management of rental real estate may delegate such authority under OAR
5 863-025-0015(6) to a real estate licensee who is under the supervision and control of the
6 principal real estate broker.

7 1.14 Records for the Oregon properties were held at the corporate Aperto office in
8 Irvine, CA in electronic format. Adle stated he did not know if the records were backed up
9 monthly.

10 **(10) Violation:** Adle did not know whether Aperto's electronic records were backed up
11 monthly in violation of ORS 696.301(3) as it incorporates OAR 863-025-0035(3)(a) (1-1-18, 1-
12 1-19, and 1-1-20 Editions) which states: (3) if a property manager uses a computerized system
13 for creating, maintaining and producing required records and reports: (a) the property manager
14 must back up any data that is stored in a computerized system at least once every month.

15 1.15 The above acts demonstrate incompetence in performing any act for which the
16 real estate licensee is required to hold a license and conduct below the standard of care for the
17 practice of professional real estate activity in Oregon.

18 **(11) Violation:** ORS 696.301(12) and (15) (2017 and 2019 Editions) state a licensee's real
19 estate license may be disciplined if they have: (12) demonstrated incompetence in performing
20 any act for which the real estate licensee is required to hold a license; and (15) engaged in any
21 conduct below the standard of care for the practice of professional real estate activity in
22 Oregon as established by the community of individuals engaged in the practice of professional
23 real estate activity in Oregon.

24 2.

25 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.
26 Based on these violations a reprimand is appropriate for violations of ORS 696.301(3), (12),
27 and (15).

28 2.2 The Agency reserves the right to investigate and pursue additional complaints
29 that may be received in the future regarding this licensee.

30 2.3 In establishing the violations alleged above, the Agency may rely on one or more

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ORDER

IT IS HEREBY ORDERED that Michael E. Adle’s principal broker license be, and hereby is reprimanded.

IT IS FURTHER ORDERED that Adle complete the 27-hour Property Manager Advanced Practices Course, (detailed in OAR 863-022-0022, 1-1-21 Edition) within 4 months from when the Commissioner signs this order. Previously completed 27-hour Property Manager Advanced Practices Courses do not qualify. The course must have been started on April 2, 2021 or later to satisfy this order. Adle must submit a certificate to the Agency showing completion of the 27-hour Property Manager Advanced Practices Course. This certificate must be submitted to the Agency no later than 10 days after the education has been completed.

IT IS SO STIPULATED:

Michael E. Adle

MICHAEL E. ADLE

Date 04/21/2021

IT IS SO ORDERED:



DocuSigned by:
Steven Strode

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STEVEN STRODE

Real Estate Commissioner

Date 4/22/2021 | 7:24 AM PDT

Date of Service: 04/22/2021