

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of

SHANNON M. MOTTER



FINAL ORDER BY DEFAULT

PROCEDURAL HISTORY AND PROCEDURAL LAW

1.

1.1 On August 31, 2021, the Real Estate Commissioner issued, by certified mail, a *Notice of Intent to Revoke* the principal real estate broker license of Shannon Marie Motter (Motter). The Oregon Real Estate Agency (Agency) sent the *Notice of Intent* to Motter’s last known address of record with the Agency (5635 NE Elam Young Pkwy Ste 304, Hillsboro, OR 97124-6488) and another possible address for Motter (16116 NW Paisley Dr., Beaverton, OR 97006). The *Notice of Intent* was also mailed to Motter by regular first class mail to the above two addresses. And the *Notice of Intent* was emailed to Motter’s email address of record.

1.2 In response to the emailing of the *Notice of Intent* to Motter’s email address of record, Motter replied that same day stating, “Thank you!”

1.3 Neither the certified mailings nor the first class mailings have been returned to the Agency. 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 by the Agency.

2.

Based upon the foregoing, and upon the Agency’s investigation reports, documents and files that, pursuant to Section 9 of the *Notice of Intent*, automatically become part of the evidentiary record of this disciplinary action upon default (for the purpose of proving a prima facie case (ORS 183.417(4)), the Real Estate Commissioner finds:

2.1 A notice of intent is properly served when deposited in the United States mail, registered or certified mail, and addressed to the real estate licensee at the licensee’s last

known address of record with OREA. (ORS 183.415(2); OAR 137-003-0505; OAR 863-001-0006. If correctly addressed, such a notice is effective even though it is not received by the person to be notified. *Stroh v. SAIF*, 261 OR 117, 492 P2d 472 (1972) (footnote 3 in this case misquotes the cited treatise and contradicts the text of the opinion; treatise and cited case law support the proposition stated in the text.) Also, notice is effective even though the addressee fails or refuses to respond to a postal service “mail arrival notice” that indicates that certified or registered mail is being held at the post office. See *State v. DeMello*, 300 Or App 590, 716 P2d 732 (1986) (discussing use of certified mail to effectuate notice of driver’s license suspension under ORS 482.570). See also *El Rio Nilo, LLC v. OLCC*, 240 Or App 362, 246 P3d 508 (2011) (Notice by certified mail effective even though addressee did not pick up in time to file request for hearing timely).(Oregon Attorney General’s Administrative Law Manual and Uniform Model Rules Of Procedure Under the Administrative Procedures 2019 Edition at pages 97-98.

2.2 Motter’s last known address of record with the Agency was 5635 NE Elam Young Pkwy Ste 304, Hillsboro, OR 97124-6488.

2.3 A certified mailing of the *Notice of Intent* was mailed to Motter at her last known address of record on August 31, 2021. The certified mailing of the notice has not been returned to the Agency.

2.4 The notice was mailed certified to another possible address for Motter at 16116 NW Paisley Dr., Beaverton, OR 97006. This certified mailing has not been returned to the Agency.

2.5 The notice was also mailed regular first class mail to both of the above possible addresses for Motter. The first class mailings have not been returned to the Agency. The OAH Rules contain a rebuttable presumption that documents sent by regular mail are received by the addressee. ORS 137-003-0520(10). If the regularly mailed notice is actually received, it is effective on the date received, rather than the date of mailing.

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

2.7 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.

2.8 As noted in section 9 of the *Notice of Intent to Revoke* and section 2.1 above, the Agency's entire investigation file was designated as the record for purposes of presenting a prima facie case upon default, including submissions from Motter and all information in the administrative file relating to the mailing of notices and any responses received.

FINDINGS OF FACT

3.

2019 MAIL IN CLIENTS' TRUST ACCOUNT REVIEW

3.1 Motter has been a licensed principal broker since April 17, 2000. She is the sole owner of Precise Property Management Services (PPM) and manages approximately 120 properties. She is also responsible for PPM's advertising and accounting.

3.2 PPM is currently registered with the Oregon Secretary of State but the website evidences that it has not completed the renewal due on June 29, 2021.

3.3 On or about September 3, 2019, OREA sent an Initial CTA Review email to Motter for Client Trust Account ending in #7881 (CTA).

3.4 On or about October 3, 2019, Motter sent OREA a January 2019 Trust Account Reconciliation form for CTA, which included a breakdown of some deposits and some checks written on the account. She also provided a Wells Fargo bank statement for CTA.

3.5 On or about November 13, 2019, OREA requested Motter provide corrections to the trust account reconciliation she provided on October 3rd because the numbers did not add up and there was missing information. OREA also requested she provide an owner's ledger, a check register that detailed transactions, and detailed deposit information. Between November 13 and December 19, 2019, Motter requested, and obtained, three extensions, based on alleged complications from pneumonia and hospitalization, to provide the requested

information on the CTA. On or about December 19, 2019, Motter sent OREA a purportedly corrected and balanced January 2019 Trust Account Reconciliation form for the CTA. However, OREA was unable to link most of the deposits and disbursements listed on the receipts and disbursement journal to entries on the actual bank statement. Motter also failed to provide page 5 of the January 2019 Wells Fargo CTA statement. On or about February 21, 2020, OREA began investigating Motter's accounting practices.

OREA'S RESULTING INVESTIGATION

3.6 PPM was first registered with the Secretary of State on June 29, 2011. Agency records evidence that the account was inactive from June 20, 2013 to May 5, 2015 for failure to renew. The account was inactive again from August 22, 2019 to January 25, 2021 for failure to renew. We note that at time of issuance of the *Notice of Intent*, and still at the time of issuance of this *Final Order By Default*, the Secretary of State website states that renewal was due on June 29, 2021 and has yet to be completed.

3.7 Motter reported to OREA that she opened two trust accounts for PPM operations on September 2, 2011: (1) CTA; and (2) Client Trust Account – Security Deposit account number ending in 7873 (CTA-SD).

3.8 On January 26, 2021, OREA emailed Motter requesting her most recent 3-way reconciliation for both CTA and CTA-SD.

3.9 On February 2, 2021, Motter emailed stating she was suffering with “long-haul symptoms” of COVID-19 and needed a deadline extension. The deadline to provide reconciliation documentation was extended to 5:00 pm on February 5, 2021.

3.10 On February 5, 2021, Motter emailed the Agency stating that she had just been released from the hospital and would not have the requested documents to the Agency by 5:00 pm but would have them to the Agency some time that day.

3.11 Three days later, on February 8, 2021, Motter produced December 2020 Trust Account Reconciliation forms for both CTA and CTA-SD. However, Parts II and III of the CTA form were blank. Additionally, Motter had omitted page 5 of the December 2020 Wells Fargo CTA bank statement and failed to submit a check register. The Agency was unable to complete its evaluation of the accuracy of Motter's accounts at that time.

ACCOUNT CTA RECONCILIATION

3.12 The Wells Fargo CTA bank statements Motter submitted to OREA on December 19, 2019, showed an ending daily balance on January 31, 2019, of \$18,141.17. On February 1, 2019, there were deposits of \$708 and \$1,195 and a withdrawal for a check clearing in the amount of \$325, for a total deposit of \$1,578. Adding \$1,578 to the January 31 ending daily balance of \$18,141.17 should have left February 1st with an ending daily balance of \$19,719.17. However, the statement provided by Motter showed the February 1st ending daily balance was only \$10,124.17, an unaccounted-for \$9,595 difference.

3.13 On or about February 3, 2021, the Agency placed a call to Wells Fargo, to discuss discrepancies in Motter's CTA bank statements. A Wells Fargo representative reviewed the information with the Agency and confirmed Motter had failed to provide OREA page 5 of the January 2019 statement.

3.14 Motter provided an "Expense Report by Category" showing the \$8,813.63 in management fees she allegedly earned between December 5, 2020, and January 7, 2021. However, the Wells Fargo CTA bank statement she provided for that same period showed five management fee withdrawals totaling \$18,860, which were deposited into Motter's business account ending in #7887. When asked about the discrepancy of \$10,046.37, Motter had no explanation.

3.15 On February 10, 2021, the Agency emailed Motter asking for the missing page 5 for both the January 2019 and December 2020 Wells Fargo CTA statements.

3.16 On February 18, 2021, the Agency had not received page 5 of the CTA bank statements for January 2019 and December 2020. The Agency emailed Motter that OREA intended to issue civil penalties if the missing documents were not received by March 4, 2021. Motter responded alleging she had once again been ill - but she also noted that she had managed to complete her 1099s for reporting to the IRS.

3.17 On May 18, 2021, OREA issued subpoenas to Wells Fargo for statements from accounts CTA and CTA-SD for November 2018 through January 2021. The requested statements were received by OREA on or about July 19, 2021.

3.18 A review of the subpoenaed Wells Fargo bank statements, for CTA #7881, showed transfers from Motter's multiple bank accounts into the CTA #7881. The months in

which those transfers occurred were in February 2019, April 2019, May 2019, September 2019, November 2019 and January 2020. The transfers into the CTA #7881 were from bank accounts that are not registered CTA's with the Agency. These miscellaneous accounts transferring funds into the CTA are identified as "Business checking" #7887, and "Business Market Rate Savings" #9366, "Way2save Savings" #9337 and "Everyday Checking" #1813.

3.19 The subpoenaed January 2019 CTA bank account statement included page 5, which revealed an unreported \$1,595 transfer from CTA to CTA – SD. The statement also revealed transfers of \$5,000 and \$3,000 from the CTA into Motter's business checking account #7887. Motter had deleted the transfers from the bank statement she provided for the CTA review. The undisclosed transfers from the CTA totaled \$9,595, which was the CTA ending daily balance difference for February 1, 2019, as referenced above in paragraph 3.12 above.

3.20 The January 2019 CTA statement also reported ACH Owner Disbursement payments totaling \$156,447.17. However, Motter's check register showed only \$142,960.66 in disbursements, an unaccounted-for difference of \$13,486.51.

3.21 Motter confirmed her management fees were capped at a flat rate of \$105 per property. At 120 properties, Motter's management fees for PPM should have been capped at \$12,600 per month.

3.22 The Agency review of 26 months of Wells Fargo bank statements, for account CTA, showed that deposits into the account averaged \$179,719.27 per month. Transfers from Motter to her business account ending in #7887 averaged \$13,360.94 per month. On average, Motter paid herself \$760.94 per month more than she was entitled to under her monthly fee cap of \$12,600 over that 26-month period.

ACCOUNT CTA-SD #7873 RECONCILIATION

3.23 On or about October 9, 2020, the Agency noted the daily ending balance of CTA-SD #7873 on February 6, 2019, was \$1,531.90, according to the Wells Fargo bank statement supplied by Motter. The Agency was concerned because, in its experience, with 120 properties in management, the account balance should have been far higher.

3.24 On or about January 8, 2021, Motter provided OREA the December 2020 Trust Account Reconciliation for CTA-SD. She reported the reconciled bank balance was \$190,110.17, as of January 7, 2021, which the "Tenant Deposits" document appeared to

confirm. Motter also submitted a December 2020 Wells Fargo statement showing CTA-SD with the same alleged balance. When asked about the large disparity between the account balance on February 6, 2019, of \$1,531.90 and the January 7, 2021, account balance of \$190,110.17, Motter stated she was unsure and would contact the bank.

3.25 On March 16, 2021, the Agency emailed Motter requesting she provide a 3-way reconciliation for the months of January and February 2019 for account CTA-SD #7873 no later than March 23, 2021. On March 23rd, Motter had not provided the documentation, and alleged not knowing of the deadline. She subsequently stopped responding to Agency requests for information and has never provided the requested information.

3.26 The subpoenaed Wells Fargo CTA-SD account statement for December 2020 showed a true ending balance of \$2,413.64 as of January 7, 2021, rather than the \$190,110.17 alleged by Motter. She has never accounted for the -\$187,696.53 discrepancy.

3.27 The Agency reviewed 26 months of subpoenaed Wells Fargo bank statements for account CTA-SD. Wells Fargo confirmed the balance of CTA-SD never reached \$190,110.17 and, in fact, never exceeded \$10,593.72. Motter had submitted to OREA altered bank statements for account CTA-SD reflecting the amount that should have been, but was not actually, in the account - the words "Monthly Service Fee Summary," which are included on all Wells Fargo account statements, are missing from the second page of the CTA-SD December 2020 statement provided by Motter.

3.28 The "Tenant Deposits" report dated January 7, 2021, shows the money missing from account CTA-SD 7873 belonged to 89 tenants.

3.29 Because of the seriousness of the above alleged violations, the Real Estate Commissioner, Steve Strode, is simultaneously moving, in circuit court, to file a Motion for Order to Show Cause and Motion for Appointment of a Receiver.

3.30 The agency intends to move forward with this administrative license revocation proceeding regardless of the outcome of the receivership action.

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STATEMENT OF LAW APPLICABLE TO FINDINGS OF FACT

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4.1 ORS 696.241(2) states a licensed real estate property manager, or a principal real estate broker who engages in the management of rental real estate, shall open and maintain in this state one or more separately federally insured bank accounts that are designated clients' trust accounts under ORS 696.245. A principal real estate broker who engages in the management of rental real estate or a licensed real estate property manager shall deposit in a clients' trust account all trust funds received or handled by the principal real estate broker, licensed real estate property manager or real estate licensees subject to the supervision of the principal real estate broker.

4.2 ORS 696.241(5) states a principal real estate broker or licensed real estate property manager may not commingle any other funds with the trust funds held in a clients' trust account, except for: (a) earned interest on a clients' trust account as provided in subsections (7) and (8) of this section and (b) earned compensation as provided in subsection (9) of this section.

4.3 ORS 696.241(12) states the agency may provide by rule for other records to be maintained and for the manner in which trust funds are deposited, held and disbursed. The rules adopted under this subsection may include requirements for interest or compensation held in a clients' trust account pursuant to subsection (5) of this section to be disbursed from the clients' trust account to a licensed real estate property manager or principal real estate broker.

4.4 ORS 696.280(1) states a licensed real estate property manager or principal real estate broker shall maintain within this state, except as provided in subsection (6) of this section, complete and adequate records of all professional real estate activity conducted by or through the licensed real estate property manager or principal real estate broker. The Real Estate Agency shall specify by rule the records required to establish complete and adequate records of a licensed real estate property manager's or principal real estate broker's professional real estate activity. The only documents the agency may require by rule a licensed real estate property manager or principal real estate broker to use or generate are

documents that are otherwise required by law or voluntarily generated in the course of conducting professional real estate activity.

4.5 ORS 696.301(3) states a real estate licensee's real estate license may be disciplined if they have: (3) disregarded or violated any provision of ORS 659A.421, 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of the Real Estate Agency

4.6 ORS 696.301(12) states a licensee's real estate license can be disciplined if they have demonstrated incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license.

4.7 ORS 696.301(14) states a licensee's real estate license can be disciplined if they have 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.

4.8 ORS 696.301(15) states a licensee's real estate license can be discipline if they have engaged in any conduct that is below the standard of care for the practice of professional real estate activity in Oregon as established by the community of individuals engaged in the practice of professional real estate activity in Oregon.

4.9 ORS 696.890(4)(a),(c),(e),(f) and (g), states: (4) a real estate property manager owes the property owner the following affirmative duties: (a) To deal honestly and in good faith; (c) To exercise reasonable care and diligence; (e) To act in a fiduciary manner in all matters relating to trust funds; (f) To be loyal to the owner by not taking action that is adverse or detrimental to the owner's interest; (g) To disclose in a timely manner to the owner any existing or contemplated conflict of interest.

4.10 OAR 863-014-0095(1) (1-1-20 Effective Date) states before conducting professional real estate activity in any name, the principal broker must first register the name with the Agency using an online application process available through the Agency's website. For the purpose of this rule, "registered business name" means any name used to conduct professional real estate activity, including; the licensee's legal name, an assumed name, or the name of a business entity, such as a corporation, partnership, limited liability company, or

other business entity recognized by law. A licensee must 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.

4.11 OAR 863-025-0028(2)(a)(A)-(B) and (b) (1-1-20 Effective Date) states: (2) a property manager must reconcile each clients' trust account within 30 calendar days of the date of the bank statement pursuant to the requirements contained in this section. (a) The reconciliation must have three components that are contained in a single reconciliation document: (A) the bank statement balance, adjusted for outstanding checks and other reconciling bank items; (B) the balance of the record of receipts and disbursements or the check register as of the date of the bank statement. (b) The balances of each component in section (2)(a) of this rule must be equal to and reconciled with each other. If any adjustment is needed, the adjustment must be clearly identified and explained on the reconciliation document.

4.12 OAR 863-025-0035(1)(b) and (2)(a) (1-1-2018 Effective Date) states: (1) the property manager's records of the management of rental real estate are "complete and adequate" as required under ORS 696.280 if the records contain, at least, the following: (b) Clients' trust account and security deposit account records required by OAR 863-025-0000 to 863-025-0080 and ORS Chapter 696. (2) A property manager must produce records required under section (1) of this rule for inspection by the Agency as follows: (a) When the Agency makes a request for production of property management records, the property manager must provide such records within no less than five banking days.

4.13 OAR 863-025-0035(2)(c) (1-1-2018 Effective Date) states (2) a property manager must produce records required under section (1) of this rule for inspection by the Agency as follows: (c) Failure to produce such records within the timelines stated in subsection (a) or (b) of this section is a violation of ORS 696.301.

4.14 OAR 863-025-0065(6) (1-1-2018 Effective date) states a property manager may not deposit any funds received on behalf of an owner in the property manager's personal account or commingle any such funds received with personal funds of the property manager.

ULTIMATE FINDINGS OF FACT

5.

- 5.1 Motter is licensed as a principal real estate broker.
- 5.2 Motter is engaged in property management.
- 5.3 Motter had at least two real estate activity related accounts. A CTA ending in #7881; and a CTA-SD ending in #7873 (CTA-SD).
- 5.4 The Agency initiated a mail in CTA review of the CTA.
- 5.5 The mail in CTA review suggested account discrepancies.
- 5.6 The Agency opened an investigation.
- 5.7 The Agency requested records from Motter for purposes of the CTA review.
- 5.8 Motter provided the December 2020 Trust Account Reconciliation forms for both the CTA and the CTA-SD. Parts II and III of the CTA form were blank.
- 5.9 The December 2020 bank statement provided by Motter was missing page 5.
- 5.10 OREA spoke with Wells Fargo Bank who confirmed the December 2020 bank statement should have had a page 5.
- 5.11 OREA subpoenaed the bank records directly from Wells Fargo Bank.
- 5.12 The Wells Fargo subpoenaed bank statements evidenced that the bank statements produced by Motter had been manipulated before provision to the Agency.
- 5.13 Review of all the records demonstrates that Motter comingled other funds with trust funds held in the clients' trust account.
- 5.14 Motter transferred money that she had not earned, without permission, from the CTA to her business account.
- 5.15 Motter transferred money that she had not earned, without permission, from the CTA-SD to her business account.
- 5.16 Motter failed to timely respond to additional agency requests for records.
- 5.17 Motter stopped responding to the Agency's attempts to communicate with her.
- 5.18 In summary, the facts above establish grounds to revoke Motter's principal real estate broker license.

CONCLUSIONS OF LAW

6.

6.1 Pursuant to ORS 183.417(4) and OAR 137-003-0670 Motter is in default.

6.2 The material facts establish a violation of a ground for discipline, by preponderance of the evidence, under ORS 696.301 as set forth in the *Notice of Intent to Revoke*.

6.3 Based on these violations, the Agency may revoke Motter's principal real estate broker license.

6.4 Specifically, Motter is subject to discipline pursuant to ORS 696.301(3), (12), (14), and (15). A revocation of Motter's principal real estate broker license is appropriate for violations of ORS 696.301(3), (12), (14) and (15), which states in part a licensee's real estate license may be disciplined if they have: (3) disregarded or violated any provision of ORS 659A.421, 696.010 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) demonstrated incompetence or untrustworthiness in performing any act for which the 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; and (15) engaged in any conduct that is below the standard of care for the practice of professional real estate activity in Oregon as established by the community of individuals engaged in the practice of professional real estate activity in Oregon.

6.5 A revocation of Motter's principal real estate broker license is appropriate under ORS 696.396(2)(c)(A),(B), and (C). According to ORS 696.396(2)(c): the Agency may revoke a real estate license if the material facts establish a violation of a ground for discipline under ORS 696.301 that: (A) Results in significant damage or injury; (B) Exhibits incompetence in the performance of professional real estate activity; or (C) Exhibits dishonesty or fraudulent conduct.

6.6 Based on the evidence in the record, the preponderance of the evidence weighs in favor of the revocation of Motter's principal real estate broker license.

6.7 The Agency may therefore, revoke Motter's principal real estate broker license.

OPINION

7.

The Agency takes its consumer protection role very seriously. Real estate licensees involved in the management of rental real estate commonly hold owner funds and maintain tenants' security deposits. These funds are required to be held separately in clients' trust accounts, and licensees are not allowed to use clients' trust account funds for personal use. In other words, comingling of client funds with a real estate licensee's own funds is strictly forbidden. Strict accounting requirements are in place by statute and rule to ensure all trust funds are properly maintained and accounted for by the licensee.

Motter's reconciliation documents contained numerous discrepancies demonstrating incompetence and Motter failed to submit page 5 of the January 2019 and December 2020 CTA bank statements to the Agency demonstrating dishonesty and untrustworthiness. After the Agency received the missing pages of bank statements via subpoena it was discovered there were multiple transfers into the clients' trust account from Motter's other accounts. The missing pages also showed transfers from the clients' trust account into Motter's business checking account. Motter had deleted these transfers from the bank statement she provided to the Agency. Further review showed Motter had been paying herself on average \$760.94 per month more in management fees than she was entitled to over a 26-month period, a further demonstration of dishonesty and untrustworthiness.

Regarding tenant security deposits, on her December 2020 reconciliation, Motter reported the reconciled bank balance was \$190,110.17 as of January 7, 2021 and submitted an altered bank statement showing the same alleged balance. The bank statement for December 2020 received via subpoena showed a true ending balance of \$2,413.64 as of January 7, 2021, rather than the \$190,110.17 alleged by Motter. Supporting documentation showed the missing money belonged to 89 tenants.

In summary, Motter's taking of clients' trust funds (consisting of owner funds and tenant security deposits) without permission, and for her own use, constitute clear and egregious violations of law. Additionally, Motter provided altered documents to the Agency in an attempts to conceal her misuse of trust funds again demonstrating dishonesty and untrustworthiness which also supports the revocation of Motter's principal real estate broker license. In addition

to these most egregious of violations, many other violations were set forth in the Notice of Intent and are repeated herein to emphasize how far below the standard of care for the practice of professional real estate her conduct ultimately fell:

1. Pursuant to ORS 696.301(3) and OAR 863-014-0095(1) (01-01-20 Effective Date) Motter failed to maintain the registered business name in active status with the Oregon Secretary of State's Corporation Division.
2. Pursuant to ORS 696.241(2) and (12), ORS 696.280(1), ORS 696.301(3), and OAR 863-025-0028(2)(a)(A)-(B) and (b) (01-01-20 Effective Date) Motter failed to reconcile the CTA so that each component was equal to and reconciled with each other. And she also failed to make the needed adjustments and failed to clearly identify and explain the needed adjustments on the reconciliation document.
3. Pursuant to ORS 696.280(1), ORS 696.301(3) and (12) and OAR 863-025-0035(1)(b) and (2)(a) (01-01-2018 Effective Date) Motter demonstrated incompetence or untrustworthiness in performing any act for which the real estate licensee is required to hold a license.
4. Pursuant to ORS 696.280(1), ORS 696.301(3) and (12) and OAR 863-025-0035(1)(b) and (2)(a) (01-01-2018 Effective Date) Motter demonstrated incompetence or untrustworthiness in performing an act for which the real estate licensee is required to hold a license.
5. Pursuant to ORS 696.280(1), ORS 696.301(3) and OAR 863-025-0035(1)(b) and (2)(a) and (c) (01-01-2018 Effective Date), Motter failed to produce records requested by the Agency within five banking days.
6. Pursuant to ORS 696.241(5) (2019 Edition); OAR 863-025-0065(6) (01-01-2018 Effective Date) and ORS 696.301(3) a principal real estate broker or licensed real estate property manager may not commingle any other funds with trust funds held in a clients' trust account, except for (a) earned interest and (b) earned compensation.
7. Pursuant to ORS 696.280(1), ORS 696.301(3) and (12) and OAR 863-025-0035(1)(b) and (2)(a) (01-01-2018 Effective Date) Motter demonstrated incompetence or untrustworthiness in performing an act for which the real estate licensee is required to hold a license.

8. Pursuant to ORS 696.280(1), ORS 696.301(3) and (14) and OAR 863-025-0035(1)(b) and (2)(a) (01-01-2018 Effective Date) Motter 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. Pursuant to ORS 696.280(1), ORS 696.301(3) and (15) and OAR 863-025-0035(1)(b) and (2)(a) (01-01-2018 Effective Date) Motter engaged in conduct that is below the standard of care for the practice of professional real estate activity in Oregon as established by the community of individuals engaged in the practice of professional real estate activity in Oregon.
10. Pursuant to ORS 696.280(1), ORS 696.301(3) and (12) and OAR 863-025-0035(1)(b) and (2)(a) (01-01-2018 Effective Date) Motter demonstrated incompetence or untrustworthiness in performing an act for which the real estate licensee is required to hold a license.
11. Pursuant to ORS 696.280(1), ORS 696.301(3) and (14) and OAR 863-025-0035(1)(b) and (2)(a) (01-01-2018 Effective Date) Motter 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.
12. Pursuant to ORS 696.890(4) and ORS 696.301(3) Motter failed to uphold her affirmative duties to (a) deal honestly and in good faith; (c) to exercise reasonable care and diligence; (e) to act in a fiduciary manner in all matters relating to trust funds; (f) to be loyal to the owner by not taking action that is adverse or detrimental to the owner's interest; (g) to disclose in a timely manner to the owner any existing or contemplated conflict of interest.
13. Pursuant to ORS 696.280(1), ORS 696.301(3) and (15) and OAR 863-025-0035(1)(b) and (2)(a) (01-01-2018 Effective Date) Motter engaged in conduct that is below the standard of care for the practice of professional real estate activity in Oregon as established by the community of individuals engaged in the practice of professional real estate activity in Oregon.
14. Pursuant to ORS 696.280(1), ORS 696.301(3) and OAR 863-025-0035(1)(b) and (2)(a) and(c) (01-01-2018 Effective Date), Motter failed to produce records requested by the Agency within five banking days.

15. Pursuant to ORS 696.280(1), ORS 696.301(3) and (12) and OAR 863-025-0035(1)(b) and (2)(a) and(c) (01-01-2018 Effective Date) Motter demonstrated incompetence or untrustworthiness in performing an act for which the real estate licensee is required to hold a license.
16. Pursuant to ORS 696.280(1), ORS 696.301(3) and (14) and OAR 863-025-0035(1)(b) and (2)(a) and(c) (01-01-2018 Effective Date) Motter 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.
17. Pursuant to ORS 696.280(1), ORS 696.301(3) and (15) and OAR 863-025-0035((1)(b) and (2)(a) and(c) (01-01-2018 Effective Date) Motter engaged in conduct that is below the standard of care for the practice of professional real estate activity in Oregon as established by the community of individuals engaged in the practice of professional real estate activity in Oregon.
18. Pursuant to ORS 696.890(4) and ORS 696.301(3) Motter failed to uphold her affirmative duties to (a) deal honestly and in good faith; (c) to exercise reasonable care and diligence; (e) to act in a fiduciary manner in all matters relating to trust funds; (f) to be loyal to the owner by not taking action that is adverse or detrimental to the owner's interest; (g) to disclose in a timely manner to the owner any existing or contemplated conflict of interest.
19. Pursuant to ORS 696.280(1), ORS 696.301(3) and (12) and OAR 863-025-0035(1)(b) and (2)(a) and(c) (01-01-2018 Effective Date) Motter demonstrated incompetence or untrustworthiness in performing an act for which the real estate licensee is required to hold a license.
20. Pursuant to ORS 696.280(1), ORS 696.301(3) and (14) and OAR 863-025-0035(1)(b) and (2)(a) and(c) (01-01-2018 Effective Date) Motter 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.
21. Pursuant to ORS 696.280(1), ORS 696.301(3) and (15) and OAR 863-025-0035(1)(b) and (2)(a) and(c) (01-01-2018 Effective Date) Motter engaged in conduct that is below the

standard of care for the practice of professional real estate activity in Oregon as established by the community of individuals engaged in the practice of professional real estate activity in Oregon.

ORDER

IT IS HEREBY ORDERED that Motter's principal real estate broker license is revoked.

Dated this 29th day of September, 2021.

OREGON REAL ESTATE AGENCY

DocuSigned by:
Steven Strode
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Steven Strode
Real Estate Commissioner

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.

Certificate of Service

On September 29, 2021, I mailed and emailed the foregoing Final Order by Default issued on the Agency Case No. 2020-61.

By: First Class Mail

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Yuleni Rodriguez
Licensing Specialist