REAL ESTATE AGENCY 1 BEFORE THE REAL ESTATE COMMISSIONER 2 3 4 In the Matter of the Property Manager License) of 5 STIPULATED FINAL ORDER 6 7 BARBARA MCCOSH NEWTON 8 9 10 The Oregon Real Estate Agency (Agency) and Barbara McCosh Newton (Newton) do 11 hereby agree and stipulate to the following: 12 FINDINGS OF FACT 13 & 14 CONCLUSIONS OF LAW 15 1. 16 1.1 On August 27, 2020, Newton submitted a renewal application to renew her 17 property manager license. On the application, Newton answered, "Yes" to the following 18 question: "At any time during the past 24 months, while holding an inactive or expired real 19 estate license, have you conducted professional real estate activity?" 20 1.2 Newton made the following comment on the question. "Work as a property 21 management under LOFT Property Management employee, part time." The Agency opened 22 an investigation. 23 1.3 From the investigation it was discovered that Newton assisted landlord Bill 24 Johnson, owner of Loft Property Management, starting in mid-2017 and worked with him part-25 time as an unlicensed employee managing Johnson's properties. 26 (1) **Violation:** By engaging in the management of rental real estate activity prior to having 27 an active license, Newton engaged in professional real estate activity as defined in ORS 28 696.010(17)(h) in violation of ORS 696.020(2). ORS 696.020(2) states an individual may not 29 engage in, carry on, advertise or purport to engage in or carry on professional real estate 30 activity, or act in the capacity of a real estate licensee, within this state unless the individual holds an active license. ORS 696.010(14) defines management of rental real estate activity.

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- 1.4 Initially, Newton obtained a license on July 22, 2019, and a registered business name was established for Loft Property Management. Loft Property Management registered business was not renewed during July 2020 and became void on August 1, 2020, causing Newton's property manager license to became inactive.
- 1.5 On September 4, 2020, BL Newton Property Manager registered business name was established with the Agency and Newton's license became associated with that business.
- 1.6 From the timeframe of August 1, 2020 through September 3, 2020, Newton's property manager license was not associated with an active registered business name and therefore was not active. During this timeframe Newton engaged in property management activity
- 1.7 Newton only worked part time for Loft Property Management and did not meet an exemption.
- **Violation:** By continuing to engage in the management of rental real estate activity over the course of 34 days (from August 1, 2020 through September 3, 2020), while she had an inactive license, Newton engaged in professional real estate activity as described in ORS 696.010(17)(h), in violation of ORS 696.020(2) (2019 Edition). ORS 696.020(2) states an 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. ORS 696.010(14) defines management of rental real estate activity.

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- 2.1 The Agency reserves the right to investigate and pursue additional complaints that may be received in the future regarding this licensee.
- 2.2 In establishing the violations alleged above, the Agency may rely on one or more of the definitions contained in ORS 696.010.
- 2.3 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.

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.

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ORDER IT IS HEREBY ORDERED that, pursuant to ORS 696.990 and based upon the violations set forth above, Newton pay a civil penalty in the sum of \$600.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to the Agency. IT IS SO STIPULATED: IT IS SO ORDERED: DocuSigned by: Barlara McCosh Newton Steven Strode BARBARA MCCOSH NEWTON STEVEN STRODE Real Estate Commissioner Date 7/21/2021 | 11:48 AM PDT Date 7/28/2021 | 9:30 AM PDT Date of Service: 07/28/2021