

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of

KAMICHIA RENEE RIDDLE

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FINAL ORDER BY DEFAULT

PROCEDURAL HISTORY

1.

1.1 On June 17, 2021, the Real Estate Commissioner issued, by certified mail, a *Notice of Intent to Reprimand* the real estate broker license of Kamichia Renee Riddle (Riddle). The Oregon Real Estate Agency (Agency) sent the *Notice of Intent* to Riddle’s last known address of record with the Agency. The *Notice of Intent* was also mailed to Riddle by regular first class mail.

1.2 The notice was also emailed to Riddle at her last email address of record.

1.3 Neither the certified mailing nor the first class mailing have been returned to the Agency. Over 20 (20 days) have elapsed since the mailing of the notice issued in this matter and no written request for hearing has been received.

2.

Based upon the foregoing and upon a review of the above described investigation reports, documents and files, the Real Estate Commissioner finds:

2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is properly served when deposited in the United States mail, registered or certified mail, addressed to the real estate licensee or to any other person having an interest in a proceeding before the Commissioner at the licensee’s or other person’s last known address of record with OREA.

2.2 Riddle’s last known address of record with the Agency was 2868 SE Quail Dr., Gresham, OR 97080.

2.3 A certified mailing of the *Notice of Intent* was mailed to Riddle at her last known address of record on June 17, 2021. The certified mailing of the notice has not been returned to the Agency.

2.4 The notice was also mailed regular first class mail in a handwritten envelope to the above address for Riddle. The mailing in the handwritten envelope has not been returned to OREA. In accordance with ORS 40.135(1)(q), there is a presumption that the mailing properly addressed and placed with the U.S. Postal Service was delivered. That presumption has not been overcome by any evidence.

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

2.6 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.

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

FINDINGS OF FACT

3.

3.1 Riddle was licensed as a real estate broker with Premiere Property Group, LLC (Premiere) between October 2017 and November 2018. Currently, Riddle's license is inactive.

3.2 In October 2020, the Agency received a complaint against Riddle and opened an investigation.

3.3 On March 14, 2018, Riddle entered into a listing agreement with Matthew and Brandie Seibel (Seibels) to sell their home at 5251 SE 18th St. in Gresham, Oregon (subject property). There was no Seller's Property Disclosure included in the listing file provided by Premiere Property Group, LLC. Per Riddle, she typically has her sellers fill out the disclosure, and in this instance may have missed uploading the document into the electronic file.

3.4 On April 27, 2018, Riddle canceled the listing; however, there was no signed termination agreement in the listing file. Riddle couldn't recall if she had the Seibels sign a termination agreement or not.

3.5 On May 8, 2018, Riddle agreed to purchase the Seibels' property under a "Subject To" sale, with Riddle taking over the existing mortgage payments. The Seibels were two months behind on their mortgage payment. It was agreed they would split the cost of getting the mortgage out of arrears. Riddle paid \$5,273.55 toward the past due mortgage and understood this amount would be used as the "down payment."

3.6 Transaction documents provided by the Seibels contained an "Addendum to Agreement to Purchase & Sell Real Estate (Owner Carry Addendum)." The Seibels did not remember signing a sales agreement.

3.7 Riddle recalled a purchase and sale agreement was executed as part of the transaction; however, Riddle could not supply a copy of the agreement or any transaction documents. She said she was 100% sure an agreement was signed because the addendums without an agreement wouldn't make sense. Riddle didn't have a copy of the transaction documents and thought they might have been lost in the move.

3.8 The transaction documents provided by the Seibels failed to note Riddle was licensed and representing herself.

3.9 Riddle failed to run the transaction through Premiere and her supervising principal broker.

3.10 Records show Riddle failed to make the mortgage payment as agreed to in the transaction documents for December 2020, January 2021, and February 2021. Furthermore, Riddle was responsible for paying all utility bills. As of March 16, 2021,

the water bill had not been paid since August 2020.

3.11 The violations above demonstrate incompetence and untrustworthiness, and are below the standard of care for professional real estate activity in Oregon.

3.12 On April 22, 2021, Riddle emailed a copy of the agreement she had with the City of Gresham to repay the past due water bill, agreeing to make payment in full by May 13, 2021. Riddle provided documentation to the Agency showing she paid the last of the outstanding water bill on May 13, 2021.

3.13 Regional Multiple Listing Service shows the subject property was listed on March 18, 2021, and sold on May 7, 2021.

STATEMENT OF LAW

4.

4.1 ORS 696.301(1) (2019 Edition) which states a licensee's real estate license may be disciplined if they have created a reasonable probability of damage or injury to a person by making one or more material misrepresentations or false promises in a matter related to professional real estate activity.

4.2 ORS 696.301(3) which states a real estate licensee's real estate license may be disciplined if they have 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.

4.3 ORS 696.301(12) which 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.

4.4 ORS 696.301(15) which states a licensee's real estate license can be disciplined 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.

4.5 ORS 696.301(3) as it incorporates:

a. OAR 863-015-0145(1) (01/01/2018 Edition), which states: (1) If a real estate licensee, whether active or inactive, either directly or indirectly offers or negotiates for the sale,

exchange, lease option, or purchase of real estate within this state and the licensee is a principal to the transaction, the licensee must disclose to the other party to the offer or transaction that the licensee is a real estate licensee. The licensee must make the disclosure in any advertising or display signs, and it must appear in writing on at least the first written document of agreement concerning the offer or transaction. The disclosure set forth on the agreement document also must state that the real estate licensee is representing himself or herself as either the buyer or the seller in the transaction.

b. OAR 863-015-0145(3) (1/01/2018 Edition), which states: (3) each transaction described in section (1) of this rule of a real estate broker associated with a principal broker must be conducted under the supervision of the licensee's principal broker and all documents and funds must be transmitted through the licensee's principal broker.

c. OAR 863-015-0250(1)(c) (01/01/2018 Edition), which requires (1) complete and adequate records of professional real estate activity include complete, legible, and permanent copies of all documents required by law or voluntarily generated during a real estate transaction, including all offers received by or through real estate brokers or principal brokers to the client, including, but not limited to, the following: (c) a copy of any written agreement for the listing, sale, purchase, rental, lease, lease option, or exchange of real property generated by a real estate broker or principal broker while engaging in professional real estate activity that must be signed by all parties to such agreement.

d. OAR 863-015-0250(1)(f), (01/01/2018 Edition) which requires (1) complete and adequate records of professional real estate activity include complete, legible, and permanent copies of all documents required by law or voluntarily generated during a real estate transaction, including all offers received by or through real estate brokers or principal brokers to the client, including, but not limited to, the following: (f) a copy of any other document within the scope of the agency relationship provided to or received by a client through a real estate broker or principal broker during the term of an agency relationship.

ULTIMATE FINDINGS OF FACT

5.

5.1 Riddle failed to keep a copy of the seller's property disclosure and

termination agreement and did not maintain complete and adequate professional real estate records.

5.2 Riddle failed to keep a copy of the purchase and sale agreement and did not maintain complete and adequate professional real estate records.

5.3 Riddle failed to disclose in the transaction documents that she was licensed and self-represented.

5.4 Riddle failed to conduct the transaction under the supervision of Riddle's supervising principal broker.

5.5 Riddle failed to make the mortgage payments for December 2020, January 2021, and February 2021, and as of March 16, 2021, failed to pay the final water bill.

5.6 Riddle's actions demonstrated incompetence and untrustworthiness, and are below the standard of care for professional real estate activity in Oregon.

5.7 In summary, the facts above establish grounds to reprimand Riddle's broker license.

CONCLUSIONS OF LAW

6.

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

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

6.3 Based on these violations, the Agency may reprimand Riddle's broker license.

6.4 Specifically, Riddle is subject to discipline pursuant to ORS 696.301(1), (3), (12) and (15). A reprimand of Riddle's broker license is appropriate for violations of ORS 696.301(1), (3), (12) and (15), which states in part a licensee's real estate license may be disciplined if they have: (1) created a reasonable probability of damage or injury to a person by making one or more material misrepresentation or false promises in a matter related to professional real estate activity; (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; (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 Based on the evidence in the record, the preponderance of the evidence weighs in favor of the reprimand of Riddle's broker license.

6.6 The Agency may therefore, reprimand Riddle's broker license.

6.7 Pursuant to ORS 696.775, the inactive status of Riddle's license does not prohibit the Commissioner from proceeding with this, or further action.

OPINION

7.

The Agency takes its consumer protection role very seriously. Riddle demonstrated a lack of competence and inappropriate conduct in the subject transaction. In order for principal brokers to properly supervise their brokers, they must rely on brokers to submit all transaction documents in a timely manner. Riddle failed to submit transaction documents to her principal broker for review, so there was no oversight of her professional real estate activity. Furthermore, Riddle failed to keep proper records of the transaction, as required. Lastly, Riddle failed to make the mortgage payments as agreed in the contract for the months of December 2020 and January and February 2021. Riddle also neglected to pay the water bill for six months. Even though the subject property recently sold and Riddle paid the outstanding water bill, these failures still occurred. Riddle's conduct demonstrated incompetence and untrustworthiness and was below the standard of care for professional real estate activity in Oregon.

The specific violations are repeated here below:

(1) By failing to keep a copy of the seller's property disclosure and termination agreement, Riddle failed to maintain complete and adequate professional real estate records in violation of ORS 696.301(3) as it incorporates OAR 863-015-0250(1)(f), (01/01/2018 Edition) which requires (1) complete and adequate records of professional real estate activity include complete, legible, and permanent copies of all documents required by law or voluntarily generated during a real estate transaction, including all offers received by or through real

estate brokers or principal brokers to the client, including, but not limited to, the following: (f) a copy of any other document within the scope of the agency relationship provided to or received by a client through a real estate broker or principal broker during the term of an agency relationship.

(2) By failing to keep a copy of the purchase and sale agreement, Riddle failed to maintain complete and adequate professional real estate records in violation of ORS 696.301(3) as it incorporates OAR 863-015-0250(1)(c) (01/01/2018 Edition), which requires (1) complete and adequate records of professional real estate activity include complete, legible, and permanent copies of all documents required by law or voluntarily generated during a real estate transaction, including all offers received by or through real estate brokers or principal brokers to the client, including, but not limited to, the following: (c) a copy of any written agreement for the listing, sale, purchase, rental, lease, lease option, or exchange of real property generated by a real estate broker or principal broker while engaging in professional real estate activity that must be signed by all parties to such agreement.

(3) By failing to disclose in the transaction documents that she was licensed and self-represented, Riddle violated ORS 696.301(3) as it incorporates OAR 863-015-0145(1) (01/01/2018 Edition), which states: (1) If a real estate license, whether active or inactive, either directly or indirectly offers or negotiates for the sale, exchange, lease option, or purchase of real estate within this state and the licensee is a principal to the transaction, the licensee must disclose to the other party to the offer or transaction that the licensee is a real estate licensee. The licensee must make the disclosure in any advertising or display signs, and it must appear in writing on at least the first written document of agreement concerning the offer or transaction. The disclosure set forth on the agreement document also must state that the real estate licensee is representing himself or herself as either the buyer or the seller in the transaction.

(4) By failing to run the transaction through Premiere and Riddle's supervising principal broker, Riddle violated ORS 696.301(3) as it incorporates OAR 863-015-0145(3) (1/01/2018 Edition), which states: (3) each transaction described in section (1) of this rule of a real estate broker associated with a principal broker must be conducted under the supervision of the

ORDER

IT IS HEREBY ORDERED that the broker license of Kamichia Renee Riddle be and hereby is, reprimanded.

Dated this 20th day of July, 2021.

OREGON REAL ESTATE AGENCY

DocuSigned by:

Steven Strobe

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Steven Strobe

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 July 20, 2021, I mailed and emailed the foregoing Final Order by Default issued on this date in Agency Case No. 2020-483.

By: First Class Mail

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