REAL ESTATE AGENCY 1 BEFORE THE REAL ESTATE COMMISSIONER 2 3 4 In the Matter of the Real Estate License of 5 STIPULATED FINAL ORDER JAMIE ALISA MELCHER 6 7 8 9 10 The Oregon Real Estate Agency (Agency) and Jamie Alisa Melcher (Melcher) do 11 hereby agree and stipulate to the following: 12 FINDINGS OF FACT, STATEMENTS OF LAW 13 AND 14 CONCLUSIONS OF LAW 15 1. 16 In establishing the violations set forth herein, the Agency may rely on one or more of the 17 definitions contained in ORS 696.010. 18 First and Second Findings of Fact: 19 1.1 Melcher was licensed as a real estate broker with Keller Williams Realty Mid-20 Willamette until March 16, 2020, when her license became associated with HomeSmart Realty 21 Group. 22 1.2 On January 17, 2021, Tracy McIntyre-Huldermann (McIntyre-Huldermann) filed a 23 complaint with the Agency. The Agency opened an investigation. 24 1.3 On April 16, 2019, McIntyre-Huldermann's property located at 743 Birch St, 25 Sweet Home (subject property) was listed for \$225,000 on the Multiple Listing Service (MLS) 26 by Laura Gillott (Gillott) and Melcher. Gillott is a principal broker with Keller Williams Realty 27 Mid-Willamette, and was Melcher's supervising principal broker at the time. 28 1.4 Melcher submitted an offer to McIntyre-Huldermann to purchase the subject 29 property herself for \$199,000.00 as an investment property. 30 1.5 A contract of sale agreement was signed on June 23, 2019, by both McIntyre-

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Huldermann and Melcher. Per the June 2019 agreement, Melcher agreed to purchase the subject property for \$199,000.00 with \$5,000.00 in earnest money deposited toward the transaction and \$800.00 monthly installments to be paid starting on July 1, 2019.

- 1.6 Melcher was required to continue making direct monthly payments and arrange for all unpaid principal, accrued unpaid interest, and all other sums due to be paid in full on or before June 2024.
- 1.7 Melcher failed to submit a copy of the signed June 2019 sale agreement to her principal broker.
- 1.8 When McIntyre-Huldermann later reached out to Gillott for help in the transaction and Gillott said she didn't have record of the transaction where Melcher purchased the property from McIntyre-Huldermann. Gillott was only able to locate a pre-listing agreement which had expired in October 2019 and an unsigned contract of sale.

First Statement of Law: ORS 696.301(3) authorizes the Commissioner to reprimand a licensee's real estate license who has 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. ORS 696.301(3) is implemented in part by OAR 863-015-0145(2) (1-1-2019 Edition), which states: (2) transactions described in section (1) of this rule of a principal broker must be processed in the same manner as the licensee's other professional real estate activities and comply with the records requirement under OAR 863-015-0250.

First Conclusion of Law: By failing to process the transaction in the same manner as her other professional real estate activities Melcher violated ORS 696.301(3) and its implementing rule OAR 863-015-0145(2) (1-1-2019 Edition).

Second Statement of Law: ORS 696.301(3) authorizes the Commissioner to reprimand a licensee's real estate license who has 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. ORS 696.301(3) is implemented in part by OAR 863-015-0250(2) (1-1-2019 Edition) which states when a real estate broker receives any document referred to in (1) of this rule, the real estate broker must transmit to the real estate broker's principal broker the document within 3 banking days of a real estate broker's receipt of the document.

Second Conclusion of Law: By failing to transmit the purchase agreement to her principal broker within 3 banking days of the receipt of the document, Melcher violated ORS 696.301(3) and its implementing rule OAR 863-015-0250(2) (1-1-2019 Edition).

Third Findings of Fact:

- 1.9 A purchase price dispute developed between Melcher and McIntyre-Huldermann.
- 1.10 On June 10th, 2020, Melcher sent McIntyre-Huldermann a text referencing her loan was approved and she was just waiting for her house to close in a few weeks. She stated she would be emailing a formal purchase agreement to sign to get escrow opened and to move the process along.
- 1.11 Per Melcher's calculations, due to payments already made, the remaining funds due for the purchase price was \$190,000.00, which was disputed by McIntyre-Huldermann.
- 1.12 On June 2020, a new purchase agreement was signed by Melcher and McIntyre-Huldermann, with Melcher offering \$190,000.00 for the subject property with \$1,000 earnest money placed toward the transaction and agreed to later deposit an additional \$46,000.00 before closing. Melcher signed the agreement on June 20, 2020 and McIntyre-Huldermann signed on June 14, 2020.
- 1.13 Per the June 2020 contract, the \$1,000 earnest money deposit was to be deposited with escrow within five business days. Melcher failed to deposit the earnest money within five days of McIntyre-Huldermann's acceptance of the purchase agreement.
- 1.14 The subject property was later relisted on August 25, 2020, for \$239,000.00 and McIntyre-Huldermann accepted a full price offer.

Third Statement of Law: ORS 696.301(3) authorizes the Commissioner to reprimand a licensee's real estate license who has 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. ORS 696.301(3) is implemented in part by OAR 863-015-0257(3)(b) (1-1-2020 Edition), which states (3) for a check held pursuant to section (2), the real estate broker or principal broker within three banking days following the acceptance of the offer or a subsequent counter offer must: (b) deposit the check to a licensed neutral escrow depository located within this state, tracking the earnest money deposit from the buyer to the principal broker and to the escrow depository.

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Third Conclusion of Law: By failing to deposit the \$1,000.00 earnest money funds into a licensed neutral escrow depository located within the state within three banking days following the acceptance of the offer or a subsequent counter offer, Melcher violated ORS 696.301(3) and its implementing rule OAR 863-015-0257(3)(b) (1-1-2020 Edition).

Fourth Statement of Law. ORS 696.301(15) authorizes the Commissioner to reprimand a licensee's real estate license who has 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.

Fourth Conclusion of Law: In the above violations Melcher engaged in conduct below the standard of care for the practice of professional real estate activity in Oregon, in violation of ORS 696.301(15) (2019 Edition).

Fifth Conclusion of Law: The forgoing violations are grounds for discipline pursuant to ORS 696.301(3) and (15). Based on these violations a reprimand is appropriate for violations of ORS 696.301(3) and (15).

2.

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.

3.

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

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STIPULATION AND WAIVER

I, Jamie Alisa Melcher, have read and reviewed this Stipulated Final Order and its Findings of Fact, Statements of Law and Conclusions of Law. I understand that the Findings of Fact, Conclusions of Law and this Stipulation and Waiver of Hearing rights 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. I also understand that any Hearing would be 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. By signing this Stipulated Final Order 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, which I have also read and understand, may be completed and signed by the Real Estate Commissioner or may be rejected by the Real Estate Commissioner. I further 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.

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In addition to all of the above, I agree that once the Commissioner executes this 1 2 Stipulated Final Order, I will accept service of the Stipulated Final Order by email, and hereby waive the right to challenge the validity of service. 3 4 **ORDER** IT IS HEREBY ORDERED that Jamie Alisa Melcher's broker license license be, and 5 6 hereby is reprimanded. 7 8 9 IT IS SO STIPULATED: IT IS SO ORDERED: 10 DocuSigned by: 11 DocuSigned by: Jamie Melcher Steven Strode 12 13 JAMIE ALISA MELCHER STEVEN STRODE 14 Real Estate Commissioner Date 3/15/2022 | 4:54 PM PDT Date 3/16/2022 | 8:26 AM PDT 15 16 Date of Service: 03/16/2022 17 18 19 20 21 22 23 24 25 26 27 28 29 30