

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of)

JASON C. MOCK)

FINAL ORDER BY DEFAULT

PROCEDURAL HISTORY

1.

1.1 On May 27, 2021, the Real Estate Commissioner issued, a *Notice of Intent to Reprimand* the property manager license of Jason C. Mock (Mock). On June 1, 2021, the *Notice of Intent* was remailed due to a mailing processing error. On June 1, 2021, the Oregon Real Estate Agency (Agency) sent the *Notice of Intent* by certified mail to Mock’s last known address of record with the Agency (2656 SW Fairmount Blvd, Portland, OR 97239). The *Notice of Intent* was also mailed to Mock by regular first class mail to the above address in a handwritten envelope on June 1, 2021.

1.2 On June 8, 2021, the Agency received the certified return receipt from the June 1, 2021, mailing. The receipt showed a delivery date of June 4, 2021, however the signature was not legible.

1.3 On June 1, 2021, *The Notice of Intent* was also emailed to Mock’s email address of record. The email was not returned as undeliverable. And per DocuSign Certificate of Completion, the document was viewed by Mock at 9:24 AM on June 15, 2021.

1.4 On June 17, 2021, the Agency received a hearing request from Mock.

1.5 On January 4, 2022, the Agency referred the case to the Office of Administrative Hearings.

1.6 A pre-hearing conference was held on February 3, 2022, at 9AM and hearing dates were set for May 17 and May 18, 2022, at 9AM.

1.7 On February 15, 2022, the Agency issued an *Amended Notice of Intent to Revoke* Mock's property manager license. The *Amended Notice of Intent* was mailed certified to Mock's address of record, and also mailed regular first-class mail in a handwritten envelope. It was also emailed to Mock's address of record and to a second possible email for Mock.

1.8 On February 25, 2022, the Agency received the certified return receipt back from the *Amended Notice of Intent* mailing. The signature was not legible and the date of delivery was February 23, 2022.

1.9 On May 13, 2022, Mock left a voicemail for Assistant Attorney General Raul Ramirez's legal assistant. In Mock's voicemail, Mock stated he would not be appearing for the hearing.

2.

Based upon the foregoing, and upon the Agency's investigation reports, documents and files that, pursuant to section 7 of the *Amended 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 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.

2.2 As noted in section 7 of the *Amended Notice of Intent to Revoke*, and section 2 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 Mock and all information in the administrative file relating to the mailing of notices and any responses received.

FINDINGS OF FACT

3.

3.1 At all times mentioned herein, Mock was licensed as a property manager working under the registered business name Residential Rentals West, Inc. (RRW).

3.2 In January 2020, the Agency received a complaint from Amit Garg (Garg) against Mock. The Agency opened an investigation.

3.3 In August 2020 the Agency received a complaint against Mock from Wei Fan Hsu (Hsu) and another investigation was opened.

3.4 In August 2021, the Agency received a complaint from Handoyo Dharmazi (Dharmazi) against Mock and opened another investigation.

3.5 In August 2021 the Agency received a complaint from Craig Saldanha (Saldanha) and opened another investigation.

Facts Related to Amit Garg's Complaint/Investigation:

3.6 Mock had managed Garg's two properties located at 3677 Lansbrook Terrace Portland, Oregon (Lansbrook) and 2898 173rd NW Terrace Portland, Oregon (173rd NW) for the last several years. Garg terminated his property management agreements with Mock in November 2019.

3.7 On March 9, 2020, Agency Compliance Coordinator Deanna Hewitt (Hewitt) and Financial Investigator/Auditor Lindsey Nunes (Nunes) drove to the main office for RRW located at 2656 SW Fairmount Blvd in Portland. There was no visible advertising sign anywhere on the outside of the residence containing the registered business name.

3.8 On February 28, 2020, during his interview, Garg stated Mock would not provide monthly owner statements.

3.9 On March 10, 2020, Nunes emailed Mock requesting records including but not limited to the following:

- Fully executed property management agreements for Lansbrook and 173rd NW
- Fully executed lease agreements for Lansbrook
- Owner ledger for the entire tenancy
- Fully executed lease agreements for 173rd NW

- Clients' trust account reconciliations for accounts ending in #3622 and #0578 for the months of October, November, December 2019 and January 2020
- Supporting information for the reconciliations; bank statements, owner/tenant ledgers, check registers, and reports for all aggregated deposits and withdrawals.
- Final accounting for property owner Garg for all properties

3.10 Mock provided the Agency with a blank, unsigned, undated owner property manager management agreement. Mock failed to provide the Agency with an executed property management agreement between RRW and Garg.

3.11 According to Mock, Garg's property management fee was 9%, however Mock wrote he gave discounts to multiple property owners. Records show sometimes the percentage for the management fee varied.

3.12 A review of the year-end accounting "Profit & Loss by Class" report for 173rd NW dated January – December 2019, shows Mock typically charged a 9% management fee from rents collected, yet he collected an 8% management fee for the month of March 2019, a 10% management fee for the month of April 2019, and then a 9% management fee for May 2019. A review of the same "Profit & Loss by Class" report for Lansbrook shows Mock charged 9% of rents collected.

3.13 The blank, unsigned, undated property management contract provided by Mock states his property management fee was 10%.

3.14 Rental lease agreement for tenants Larry and Wendy Nichols (Nichols) of 173rd NW was provided by Mock. The contract states the rental agreement with Mock began on March 9, 2019 and had a termination date of May 31, 2020. The rent was \$1,995.00 and noted a \$2,700.00 security deposit. Additionally, Mock provided a blank, unsigned addendum for 173rd NW dated March 1, 2019.

3.15 Tonya and Peter Cavin (Cavins) signed a 12 month residential lease to rent Lansbrook commencing on July 6, 2017, and ending on June 30, 2018. The rent was \$3,200.00 with a security deposit of \$3,700.00.

3.16 Tonya stated after the first year, Mock agreed to reduce their rent to \$3,000.00 and sent them a new lease with the new terms.

3.17 The lease agreement Mock provided to the Agency for Lansbrook contained the first year lease terms with the rent at \$3,200.00. Mock did not provide the most recent lease agreement for Lansbrook to the Agency.

3.18 During the investigation, Mock was requested and failed to provide tenant ledgers for tenants Nichols and Cavins, owner ledgers, monthly three-way reconciliations for his clients' trust account and security deposits account, and the supporting documentation for the monthly reconciliations as requested by email dated March 10, 2020 (specifically the record of receipts and disbursements). Mock stated in an email dated April 2, 2020, he did not have records to the standards requested.

3.19 When Mock was requested to provide his check register/record of receipts and disbursements, he provided a multiple page report titled, "Monthly Rents Collected." According to Mock this was the only record he used to keep track of receipts and disbursements for rents, repairs, and funds received on behalf of an owner. The report provided by Mock lacked the following required detail:

- For each receipt of funds: the purpose of the funds and identity of the person who tendered the funds, and the date the funds were deposited.
- For each disbursement of funds: the date the funds were disbursed, check number and payee of the disbursement; and purpose of the disbursement.
- Applicable identifying code and the account balance after each entry.

3.20 During the investigation, Mock admitted he failed to reconcile his clients' trust accounts and security deposits account monthly as required.

3.21 In an email dated November 8, 2019, Garg emailed Mock that he wished to transition to another property manager by the end of the year. Records show the final payment to Garg's bank account from Mock was dated March 11, 2020, in the amount of \$4,120.45 occurring approximately 71 days after termination of the property management agreement, December 31, 2019. Mock failed to transfer all funds due to Garg within 60 days as required.

3.22 October's bank statement for clients' trust account ending in #0578 shows transfers to RRW's operating account ending in #3619 in the following amounts:

- October 7, 2019 \$13,558.20
- October 11, 2019 \$16,000.00

- October 16, 2019 \$4,845.00

3.23 October's bank statement for security deposits account ending in #3622 showed the following transfers to RRW's operating account ending in #3619 in the following amounts:

- October 31, 2019 \$2,500
- October 31, 2019 \$3,100

3.24 The total amount transferred from both of Mock's clients' trust accounts to RRW's operating account in October 2019 totaled \$40,003.20. Mock was asked to provide a record of receipts and disbursements for the purpose of the October transfers and explain what the transfers were for.

3.25 According to Mock, the October 7, 2019, transfer of \$13,558.20 was for management fees, repairs and expenses. Mock provided copies of 7 checks he wrote to property owners totaling \$16,439.45 from RRW's operating account.

3.26 Mock failed to produce for the Agency any invoices or owner ledgers supporting the disbursements for the \$40,003.20 or the \$13,558.20.

3.27 November and December 2019 bank statements for the three accounts show multiple transfers from the clients' trust account ending in #0578 and security deposit account ending in #3622 to RRW's operating account ending in #3619.

3.28 According to Mock, the October 16, 2019, transfer of \$4,845.00 related to his personal rental properties, which had been deposited into Mock's clients' trust account ending in #0578.

Facts Related to Wei Fan Hsu's Complaint/Investigation:

3.29 On July 13, 2020, Hsu emailed Mock thanking him for taking care of his property located at 2319 168th Place, Beaverton Or, (2319 168th) and notified him that he was switching property management companies.

3.30 Hsu provided the Agency with a copy of his property management agreement with Mock. The property management agreement Hsu provided was not signed or dated by Mock. It was signed and dated by Hsu, with a date of March 7, 2016.

3.31 Property owner Hsu terminated the property management agreement in writing on July 13, 2020, and as of November 11, 2020, Mock had failed to provide a final accounting of the owner ledger.

3.32 Hsu's complaint stated when he received rental payments from Mock they came without any indication of what the payments were for. Hsu stated in the complaint he received a rental income deposit on February 24, 2020, for \$3,220.00 and on April 27, 2020, for \$4,830.00 with no explanation about the amounts or what they were for.

3.33 On November 24, 2020, Mock provided a two page final accounting for Hsu. From a review of the documentation, rent payments were received dated June 7, 2019 through August 10, 2020 in varying amounts of \$1,750-\$8,800, indicating 15 months of rental income was received in only 6 payments for a total of \$23,350.00.

3.34 Another page of the final accounting from Mock shows under the heading for "Tenant Deposit" 24 entries, each one for \$1,800.

3.35 It is unknown how Mock corresponds the 6 rental payments for 15 months of tenancy of June 2019 through August 2020 on one report compared to the 24 receipts of rental income on another.

Facts Related to Handoyo Dharmazi Complaint/Investigation:

3.36 Handoyo Dharmazi (Dharmazi) previously had his property managed by Mock.

3.37 Dated December 18, 2020, Dharmazi gave a 30-day's notice that he was terminating the property management agreement and requested all keys, rents, and deposits due. As of February 1, 2021, Dharmazi would assume responsibility to collect rents and perform other obligations under the property management agreement.

3.38 Dharmazi provided his copy of the property management agreement with RRW that he had received from Mock to the Agency. A review shows it was a blank template property management agreement without owner information, date of the agreement, address, legal property description, term of agreement or identifying code. Additionally, the agreement was not signed and dated by Mock or Dharmazi.

3.39 Dharmazi provided a copy of a tenant lease agreement he received from Mock. The effective date of the lease was August 1, 2018, and the property address was 463 NE Natalie St., Hillsboro (Natalie). The lease identified the tenants as Heather and Antonious Gray. The lease was not signed and dated by the tenant. Mock was identified by the Lessor on the signature line but there was no date next to the signature line. The lease agreement references Addendum A which was for property 389 NE Natalie St, Hillsboro (a different

property and was not owned by Dharmazi). Addendum A was not signed and dated by either Mock or the tenant.

3.40 As stated above, dated December 18, 2020, Dharmazi gave a 30-day's notice that he was terminating the property management agreement and requested all keys, rents, and deposits due. As of February 1, 2021, Dharmazi would assume responsibility to collect rents and perform other obligations under the property management agreement.

3.41 According to Dharmazi's property management agreement within 60 days after the date of termination of the agreement, any balance of funds owed to owner or tenant security deposits, final accounting, property, contracts, leases and all records should be delivered to the owner. It stated the property manager may withhold un-obligated funds not later than 60 days after the termination date, in order to pay bills previously occurred but not yet invoiced and to close accounts.

3.42 On March 5, 2021, Dharmazi emailed Mock asking when Mock would provide the January 2021 payment, safety deposit and paperwork for his rental property.

3.43 On March 17, 2021, Mock responded that their contract required this to be completed by the end of March. Mock wrote he had already sent Dharmazi the lease, as well as all contact info. Dharmazi responded that Mock had only provided the tenant name, email address, incorrect addendum relating to another owner, and an unsigned lease agreement without any tenant information (the lease did identify the tenants as Heather and Antonious Gray).

3.44 In an email dated March 17, 2021, Dharmazi requested a signed lease. Mock failed to provide a fully executed signed lease agreement to Dharmazi.

3.45 On March 30, 2021, Dharmazi emailed and reminded Mock the 60 day wait was almost over to return the deposit, January 2021 rent, keys and expense invoices. Mock replied he was currently working on it. In additional emails that same day, Mock wrote he found it interesting Dharmazi hadn't notified Mock that the tenant had made good on most of her unpaid rent. Mock alleged in his email, his records showed he was missing four months of rent in 2020. Mock noted discrepancies in the rent received from the tenant and he was missing four rental payments. Mock stated, "You were paid even though I did not receive that months payment."

3.46 After the Agency received Dharmazi's complaint, Mock was emailed by Agency staff and attempted to obtain his response on August 5, 2021, and August 20, 2021. On August 20, 2021, Mock sent several emails back to Agency staff in response, however he failed to address specifics from the complaint or provide any supporting documentation. Mock indicated he had already provided a response indicated he thought this matter had already been resolved.

3.47 On December 6, 2021, the Agency made a record request requiring Mock to provide the following records by December 14, 2021:

- Signed and dated property management agreement with Dharmazi
- Signed and dated residential lease with the Grays, including Addendum A
- Owner's ledger for the agreement with Dharmazi
- Tenants' ledger for agreement with the Grays
- Final accounting of the owner's ledger account for Dharmazi
- Accounting of all security deposits and fees held for the Grays
- Any documentation, including but not limited to emails with Dharmazi concerning the dispute.

3.48 On December 6, 2021, Agency Financial Investigator/Auditor Aaron Grimes (Grimes) spoke with Mock. Mock acknowledged receiving the record request from Grimes. Mock said he would not provide anything requested because he had already provided everything to the Agency. Mock stated his attorney would contact Grimes. As of December 14, 2021, this has not occurred.

3.49 Mock has not provided any of the December 6, 2021, requested records to the Agency.

3.50 On March 31, 2021, Mock and Dharmazi exchanged emails back and forth regarding the discrepancies of rents received and the amounts owed to Dharmazi. Mock provided Dharmazi an accounting titled, "What I have so far." There were no attachments to the email with supporting documentation or an amount as shown on the owner ledger provided by Mock.

The email noted the following amounts:

- Tenant paid January 2021, \$1,800

- Management fee (\$180)
- 3 Additional unpaid months of management fees (\$540)
- Tenant deposit \$1,800
- Overpaid 2020 to owner (\$1,620)
- Total owed to client \$1,260

3.51 Later that same day, Mock provided Dharmazi a screen shot of the transfer to Dharmazi's bank account for \$1,260.00.

3.52 According to Dharmazi, he had not received any breakdown of the expense from previous years and reminded Mock he still needed to provide detailed expenses that were deducted from the owner disbursements.

3.53 In an email dated March 17, 2021, Dharmazi requested a breakdown of expenses from 2020.

3.54 Per the terms of the Dharmazi's property management agreement the property manager was required to provide detailed monthly accounting by the 20th day of the following month of all receipts and disbursements made from the owner clients' trust account. According to Dharmazi, Mock failed to provide these monthly owner statements.

Facts Related to Craig Saldanha and Sasha Prabhu Complaint/Investigation:

3.55 After the Agency received the complaint from Craig Saldanha (Saldanha) and Sasha Prabhu (Prabhu) Agency staff emailed Mock and attempted to obtain his response on August 16, 2021. On August 20, 2021, Agency staff followed-up with Mock via email requesting a response in regards to the complaint from Saldanha. Mock responded to the email but failed to address the specifics of the complaint.

3.56 Saldanha and Prabhu were owners of 20798 SW Rosemount St, Beaverton, OR which had been previously managed by Mock.

3.57 A Property Management Termination Notice dated April 21, 2021, was signed by Saldanha stating he wished to terminate his property management agreement with RRW, effective May 28, 2021. Saldanha requested Mock collect the rent for May and for Mock to pay any outstanding expenses, deduct his commission and complete a final billing.

3.58 On August 16, 2021, Saldaha emailed the Agency that they had received their deposit that morning, approximately 80 days after the termination effective date of May 28, 2021.

3.59 On December 6, 2021, Agency Financial Investigator/Auditor Aaron Grimes (Grimes) made a record request requiring Mock to provide the following records by December 14, 2021:

- The final accounting of the owner's ledger account for Saldanha and Prabhu and
- Any documentation, including but not limited to emails with Saldanha or Prabhu concerning the dispute.

3.60 On December 6, 2021, Grimes spoke with Mock. Mock acknowledged receiving the record request from Grimes. Mock said he would not provide anything requested because he had already provided everything to the Agency. Mock stated his attorney would contact Grimes. As of December 14, 2021, this has not occurred.

3.61 Mock has not provided any of the December 6, 2021, requested records to the Agency.

Facts Related to both Handoyo Dharmazi and Craig Saldanha and Sasha Prabhu's Complaint/Investigation:

3.62 During the investigation, the Agency attempted to obtain records from Mock relating to his management of Dharmazi's and Saldaha and Prabhu's property by letter dated December 2, 2021, sent to Mock's email address of record. This email message could not be delivered and a current email address had to be found for Mock.

3.63 All of the above demonstrates incompetence or untrustworthiness in performing any act for which Mock is required to hold a license.

STATEMENT OF LAW APPLICABLE TO FINDINGS OF FACT

4.

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

4.2 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.

4.3 ORS 696.301(3) as it incorporates:

- a. ORS 696.200(1)(c) (2019 Edition) which states: (1) A licensed real estate property manager or principal real estate broker shall: (c) designate the main office by a sign that contains the name under which the real estate licensee conducts professional real estate activity as provided in ORS 696.026.
- b. ORS 696.280(3) (2021 Edition) states records maintained under this section must at all times be open for inspection by the Real Estate Commissioner or the commissioner's authorized representatives.
- c. ORS 696.890(3) (2019 Edition) which states, a real estate property manager may engage in the management of rental real estate for an owner of rental real estate only pursuant to a property management agreement.
- d. ORS 696.890(4)(a)(c)(e) (2019 Edition) which states: A 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.
- e. OAR 863-014-0062(1) (1-1-21 Edition) which states each active, inactive and expired real estate licensee must maintain on file with the Agency a current mailing address and email address and notify the Agency within 10 calendar days of a change to a mailing or email address.
- f. OAR 863-025-0020(2)(l)(m) (5-15-14 Edition) which requires: (2) a property management agreement must include, but is not limited to: (l) signatures of the

property manager, or a person authorized in section (6) of this rule, and the owner; and (m) the date of the agreement.

- g. OAR 863-025-0020(1)(2)(l)(m) (1-1-2018 Edition) which requires: (1) a property manager must not engage in the management of rental real estate without a written, unexpired property management agreement between the owner and the property manager. (2) a property management agreement must include, but is not limited to: (l) signatures of the property manager, or a person authorized in section (6) of this rule, and the owner; and (m) the date of the agreement.
- h. OAR 863-025-0020(1)(2)(a)(d)(e)(k)(l)(m)(7) (1-1-2018 Edition) which states (1) a property manager must not engage in the management of rental real estate without a written unexpired property management agreement between the owner and property manager. (2) A property management agreement must include, but is not limited to: (a) the address or legal description of the owner's rental real estate; (d) the term of the agreement and the method for termination; (d) the term of the agreement and the method for termination; (k) an identifying code; (l) signatures of the property manager, or a persona authorized in section (6) of this rule, and the owner; (m) the date of the agreement. (7) The property manager must promptly deliver a legible copy of the fully executed property management agreement, and any addenda or amendments, to the owner.
- i. OAR 863-025-0025(9) (1-1-2019 Edition) states: A property manager may not allow an owner to be an authorized signer on a clients' trust account or security deposit account and may not allow an owner to deposit, hold, or disburse funds in a clients' trust account or security deposit account.
- j. OAR 863-025-0027(3) (1-1-2020 Edition) states (3) a property manager must not disburse funds from a clients' trust account or security deposits account unless there are sufficient funds, as defined in OAR 863-025-0010, in the ledger account against

- which the disbursement is made. OAR 863-025-0010(21) defines “sufficient funds” as an amount of funds on an owner’s ledger or a tenant’s ledger that is equal to or great than the amount of a planned disbursement from a clients’ trust account or a security deposits account but which must not include any security deposits in a security deposits trust account that are required to be held pending the termination of a rental agreement. Only funds belonging to the owner or tenant on whose behalf the disbursement is planned may be considered in determining if there are sufficient funds or a sufficient credit balance.
- k. OAR 863-025-0027(8) (1-1-2021 Edition) states upon request by the Commissioner or an authorized representative of the Commissioner, a property manager must demonstrate that a sufficient credit balance, as defined in OAR 863-025-0010, existed in a ledger account at the time of the disbursement is made from a clients’ trust account or security deposits account by producing financial records showing that such disbursement did not involve the use of any other owner’s or tenant’s trust funds.
- l. OAR 863-025-0028(2)(a)(A)(B)(C)(b)(c)(d)(A)(B)(e) and OAR 863-025-0028(3)(a)(A)(B)(C)(b)(c)(d)(A)(B)(e) (1-1-18, 1-1-19, and 1-1-20 Editions) which requires a property manager to reconcile each clients’ trust account and security deposits account within 30 calendar days of the bank statement and the reconciliation must contain the three required components.
- m. OAR 863-025-0035(1)(a) (5-15-14, 11-15-16, 1-1-2018, 1-1-2019 and 1-1-2020 Editions) which 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: (a) a legible copy of each executed property management agreement and any executed addenda or amendments to that agreement.

- n. OAR 863-025-0035(1)(b)(c)(d)(e)(f)(j)(l) (1-1-18, 1-1-19, 1-1-20 Editions) which 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; (c) An owner's ledger for each property management agreement; (d) A record of receipts and disbursements or check register maintained for each clients' trust account or security deposits account; (e) A legible copy of each tenant agreement; (f) A tenant's ledger for each tenant; and (j) Records of the reconciliation of each clients' trust account and security deposits account, including the reconciliation document and (l) record of deposits for clients' trust account and tenant security deposit accounts.

- o. OAR 863-025-0035(2)(a)(b)(c) (1-1-21 Edition) states: (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; and (b) If the Agency has reasonable grounds to believe that funds of an owner or tenant are missing or misappropriated or that the property manager is engaging in fraudulent activity, any records demanded or requested by the Agency must be produce immediately; and (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.

- p. OAR 863-025-0035(2)(a)(c) (1-1-21 Edition) states: (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; and (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.

- q. OAR 863-025-0035(3)(b) (1-1-19 and 1-1-2020 Editions) which states (3) if a property manager uses a computerized system for creating, maintaining and producing required records and reports: (b) posting of owner ledgers, record of receipts and disbursements, tenant ledgers and manipulation of information and documents must be maintained in a format that readily enable tracking and reconciliation.

- r. OAR 863-025-0040(1)(2)(a)(C)(D)(b)(A)(C)(D)(c)(e)(5) (1-1-18, 1-1-19, and 1-1-20 Editions) which states: (1) Except as provided in section (4) of this rule, a property manager must prepare and maintain a chronological record of receipts and disbursements or a check register for each client's trust account and each security deposits account in which the manager must record each receipt of funds and each disbursement of funds. (2) A record of receipts and disbursements or a check register must contain at least the following information: (a) For each receipt of funds: (C) The purpose of the funds and identity of the person who tendered the funds; and (D) The date the funds were deposited; (b) For each disbursement of funds: (A) The date the funds were disbursed; (C) The check number and payee of the disbursement; and (D) The purpose of the disbursement;(c) If there is more than one property in a clients' trust account, each entry for a receipt, deposit or disbursement must be identified with the applicable identifying code; and (e) The account balance after each entry.

- s. OAR 863-025-0045(1)(d) and (e) (1-1-18 Edition) which states: (1) Residential property. The property manager must file and maintain legible copies of all tenant rental or lease agreements for the time period required under OAR 863-025-0035. Each tenant rental or lease agreement prepared by a property manager for residential real estate must contain, in addition to and not in lieu of any applicable requirements of the Residential Landlord and Tenant Act, the following: (d) signatures of the property manager, or person authorized under OAR 863-025-0015 and the tenant; and (e) the date of the agreement.

- t. OAR 863-025-0045(1)(d) (1-1-2019 Edition) which states, (1) Residential Property. The property manager must file and maintain legible copies of all tenant rental or lease agreements for the time period required under OAR 863-025-0035. Each tenant rental or lease agreement prepared by a property manager for residential real estate must contain, in addition to and not in lieu of any applicable requirements of the Residential Landlord and Tenant Act, the following: (d) Signatures of the property manager, or person authorized under OAR 863-025-0015, and the tenant.
- u. OAR 863-025-0050(1) (1-1-18 and 1-1-19 Editions) which states, except as provided in section (3) of this rule, a property manager must prepare and maintain at least one tenant's ledger for each tenant or individual from whom the property manager has received any funds under a property management agreement, whether or not the tenant has executed a written rental or lease agreement at the time of the payment of funds to the property manager.
- v. OAR 863-025-0055(4) (1-1-18 1-1-19, and 1-1-20 Editions) which states (4) a property manager must report in writing to each owner any change in the owner's ledger. A monthly report, showing all receipts and disbursements for the account of the owner during the prior monthly period, is sufficient under this section. A copy of each such report must be preserved and filed in the property manager's records. If an annual report contains information not required to be provided by the property manager under these rules, the property manager must set forth such information separately.
- w. OAR 863-025-0065(6) (1-1-2019 Edition) 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.

- x. OAR 863-025-0068(2) (1-1-21 Edition) states upon written request from a property owner, a property manager must deliver to the owner copies of the current rental or lease agreement, including all addenda and modifications, within five business days of the date of actually receiving the request for information, unless the owner and the manager agree to a different time period.

- y. OAR 863-025-0070(2)(a) (1-1-2020 and 1-1-2021 Editions) which states: (2) not later than 60 days after the effective date of the termination, the property manager must: (a) disburse all obligated funds to the party or parties entitled to the funds.

- z. OAR 863-025-0070(2)(b)(A) (1-1-20 Edition) which states: (2) not later than 60 days after the effective date of the termination, the property manager must: (b) provide the owner with the following: (A) a final accounting of the owner's ledger account.

- aa. OAR 863-025-0070(2)(a)(b)(A)(B)(E) (1-1-21 Edition) which states (2) Not later than 60 days after the effective date of the termination, the property manager must: (a) disburse all obligated funds to the party or parties entitled to the funds; and (b) provide the owner with the following: (A) a final accounting of the owner's ledger account; (B) all funds belonging to the owner as shown on the owner's ledger, unless the owner directs the property manager, in writing, to transfer the funds to another property manager, escrow agent or person; (E) copies of all current tenant rental or lease agreements, unless the owner waives such requirement in writing or directs the property manager, in writing, to provide such documents to another property manager, escrow agent or person.

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ULTIMATE FINDINGS OF FACT

5.

5.1 Mock failed have a sign displaying advertising for Residential Rentals West Inc. (RRW) at the main office located at 2656 SW Fairmount Blvd in Portland Oregon 97239.

5.2 Mock failed to provide monthly owner statements to Garg.

5.3 Mock failed to sign and date a property management agreement between RRW and property owner Garg.

5.4 Mock failed to have a fully executed property management agreement, with property owner Garg. Mock's records are not "complete and adequate."

5.5 Mock collected management fees ranging from 8%-10% compensation for management of rental real estate for property owner Garg, but Mock failed to have a written, unexpired property management agreement describing duties and responsibilities and compensation.

5.6 Mock failed to sign the addendum to the rental agreement for 173rd NW, for tenants the Nichols.

5.7 Mock failed to maintain tenant ledgers for tenants Nichols and Cavins.

5.8 Mock failed to maintain a record of receipts and disbursements with all the required detail.

5.9 Mock failed to monthly reconcile his clients' trust account and security deposits account Mock.

5.10 Mock failed to maintain "complete and adequate" records for tenant and owner ledgers, a current tenant agreement for the Cavins, monthly owner reports for Garg, records of receipts and disbursements, and clients' trust account and security deposit account records, and monthly reconciliations. Mock stated to a representative of the commissioner he had not kept records to license law requirements.

5.11 Mock failed to transfer funds owed to property owner Garg until approximately 71 days after the termination of the property management agreement.

5.12 Mock transferred funds from clients trust account ending in #0578 and security deposits account ending in #3622 to RRW's operating account ending in #3619 without being able to provide any supporting documentation for the disbursements.

5.13 Mock received rents from property he owned and deposited them in his clients' trust account ending in #0578.

5.14 Mock failed to sign and date the property management agreement for property owner Hsu.

5.15 Mock failed to sign and date and deliver to property owner Hsu a copy of the executed property management agreement.

5.16 Mock failed to provide property owner Hsu with a final owner ledger's accounting within 60 days from the effective date of termination.

5.17 Mock failed to provide monthly owner statements to property owner Hsu.

5.18 Records received for property owner Hsu final accounting of the owner ledger and receipts and disbursements were not maintained in a format that enabled tracking and reconciling.

5.19 Dharmazi's copy of the property management agreement, which had been provided to him by Mock, was missing the following required elements: address, legal property description, term of agreement or identifying code. Additionally, the agreement was not signed and dated by Mock or Dharmazi .

5.20 Mock failed to date the lease agreement and failing to have the tenant sign the lease agreement.

5.21 Mock sent Dharmazi an unsigned tenant lease agreement and an addendum relating to another property owner.

5.22 Mock failed to provide a copy of the signed lease to Dharmazi.

5.23 Mock continued to make owner disbursements even when rent was not actually received.

5.24 Mock failed to provide the requested records to the Agency as required.

5.25 Mock failed to disburse funds owed to the owner and provide a final accounting and failure to provide copies of all current rental or lease agreements within the required timeframe.

5.26 Mock failed to provide monthly owner statements to Dharmazi.

5.27 Mock failed to provide the owner with all obligated funds within the required timeframe.

5.28 Mock failed provide the requested records to the Agency as required.

5.29 Mock failed to keep a current email address on file with the Agency.

5.30 In all of the above, Mock demonstrated incompetence or untrustworthiness in performing any act for which the real estate licensee is required to hold a license.

5.31 In summary, the facts above establish grounds to revoke Mock's property manager license.

CONCLUSIONS OF LAW

6.

6.1 Pursuant to ORS 183.417(4) and OAR 137-003-0670 Mock 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 *Amended Notice of Intent to Revoke*. ORS 696.396(1),(2)(c)(B).

6.3 Based on these violations, the Agency may revoke Mock's property manager license.

6.4 Specifically, Mock is subject to discipline pursuant to ORS 696.301(3) and (12) for: (3) disregarding or violating 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; and (12) demonstrating incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license.

6.5 A revocation of Mock's property manager license is appropriate for violations of ORS 696.301(3) and (12).

6.6 A revocation of Mock's property manager license is appropriate under ORS 696.396(2)(c)(B). According to ORS 696.396(2)(c)(B) the Agency may revoke a real estate license if the material facts establish a violation of a ground of discipline under ORS 696.301 that (B) exhibits incompetence in the performance of professional real estate activity.

6.7 Based on the evidence in the record, the preponderance of the evidence supports the revocation of Mock's property manager license.

6.8 The Agency may therefore, revoke Mock's property manager license.

6.9 The specific violations are repeated here below:

- (1) By failing to have a sign displaying advertising for Residential Rentals West Inc. (RRW) at the main office located at 2656 SW Fairmount Blvd in Portland Oregon 97239, Mock violated ORS 696.301(3) as it incorporates ORS 696.200(1)(c) (2019 Edition).
- (2) Mock failed to provide monthly owner statements to Garg, in violation of ORS 696.301(3) as it incorporates OAR 863-025-0055(4) (1-1-18 and 1-1-19 Editions).
- (3) Mock failed to sign and date a property management agreement between RRW and property owner Garg in violation of ORS 696.301(3) as it incorporates OAR 863-025-0020(1)(2)(l)(m) (1-1-2018 Edition).
- (4) By failing to have a fully executed property management agreement, with property owner Garg, Mock's records are not "complete and adequate" in violation of ORS 696.301(3) as it incorporates OAR 863-025-0035(1)(a) (1-1-2018, 1-1-2019 and 1-1-2020 Editions).
- (5) Records show Mock collected management fees ranging from 8%-10%, compensation for management of rental real estate for property owner Garg, but Mock failed to have a written, unexpired property management agreement describing duties and responsibilities and compensation, a violation of ORS 696.301(3) as it incorporates ORS 696.890(3) (2019 Edition).
- (6) By failing to sign the addendum to the rental agreement for 173rd NW, for tenants the Nichols, Mock violated ORS 696.301(3) as it incorporates OAR 863-025-0045(1)(d) (1-1-2019 Edition).
- (7) By failing to maintain tenant ledgers for tenants Nichols and Cavins, Mock violated ORS 696.301(3) as it incorporates OAR 863-025-0050(1) (1-1-18 and 1-1-19 Editions).
- (8) By failing to maintain a record of receipts and disbursements with all the required detail Mock violated ORS 696.301(3) as it incorporates OAR 863-025-0040(1)(2)(a)(C)(D)(b)(A)(C)(D)(c)(e)(5) (1-1-18, 1-1-19, and 1-1-20 Editions).
- (9) By failing to monthly reconcile his clients' trust account and security deposits account Mock violated ORS 696.301(3) as it incorporates OAR 863-025-0028(2)(a)(A)(B)(C)(b)(c)(d)(A)(B)(e) and OAR 863-025-0028(3)(a)(A)(B)(C)(b)(c)(d)(A)(B)(e) (1-1-18, 1-1-19, and 1-1-20 Editions).
- (10) Mock failed to maintain "complete and adequate" records for tenant and owner ledgers, a current tenant agreement for the Cavins, monthly owner reports for Garg, records of receipts and disbursements, and clients' trust account and security deposit account records, and

monthly reconciliations, where Mock stated to a representative of the commissioner he had not kept records to license law requirements, in violation of ORS 696.301(3) as it incorporates OAR 863-025-0035(1)(b)(c)(d)(e)(f)(j)(l) (1-1-18, 1-1-19, 1-1-20 Editions).

(11) By failing to transfer funds owed to property owner Garg until approximately 71 days after the termination of the property management agreement Mock violated ORS 696.301(3) as it incorporates OAR 863-025-0070(2)(a) (1-1-2020 Edition).

(12) By transferring funds from clients trust account ending in #0578 and security deposits account ending in #3622 to RRW's operating account ending in #3619 without being able to provide any supporting documentation for the disbursements, Mock violated ORS 696.301(3) as it incorporates ORS 696.890(4)(a)(c)(e) (2019 Edition).

(13) By receiving rents from property he owned and depositing them in his clients' trust account ending in #0578, Mock violated ORS 696.301(3) as it incorporates OAR 863-025-0025(9) and OAR 863-025-0065(6) (1-1-2019 Edition).

(14) By failing to sign and date the property management agreement for property owner Hsu, Mock violated ORS 696.301(3) as it incorporates OAR 863-025-0020(2)(l)(m) (5-15-14 Edition).

(15) By failing to sign, date, and deliver to property owner Hsu a copy of the executed property management agreement Mock violated ORS 696.301(3) as it incorporates OAR 863-025-0035(1)(a) (5-15-14, 11-15-16, 1-1-18, 1-1-19, 1-1-20 Editions).

(16) By failing to provide property owner Hsu with a final accounting of the owner ledger within 60 days from the effective date of termination Mock violated ORS 696.301(3) as it incorporates OAR 863-025-0070(2)(b)(A) (1-1-20 Edition).

(17) Mock failed to provide monthly owner statements to property owner Hsu in violation of ORS 696.301(3) as it incorporates OAR 863-025-0055(4) (1-1-18, 1-1-19, and 1-1-20 Editions).

(18) Records received for property owner Hsu's final accounting of the owner ledger and receipts and disbursements journal were not maintained in a format that enabled tracking and reconciling, a violation of ORS 696.301(3) as it incorporates OAR 863-025-0035(3)(b) (1-1-19 and 1-1-2020 Editions).

(19) Dharmazi's copy of the property management agreement, which had been provided to him by Mock, was missing the following required elements: address, legal property description, term of agreement or identifying code. Additionally, the agreement was not signed and dated by Mock or Dharmazi . Mock violated ORS 696.301(3) in violation of OAR 863-025-0020(1)(2)(a)(d)(e)(k)(l)(m)(7) (1-1-2018 Edition).

(20) By failing to date the lease agreement and failing to have the tenant sign the lease agreement Mock violated ORS 696.301(3) as it incorporates OAR 863-025-0045(1)(d) and (e) (1-1-18 Edition).

(21) By sending Dharmazi an unsigned tenant lease agreement and an addendum relating to another property owner Mock violated ORS 696.301(12) (2019 and 2021 Editions).

(22) By failing to provide a copy of the signed lease to Dharmazi Mock violated ORS 696.301(12) (2021 Edition) and ORS 696.301(3) as it incorporates OAR 863-025-0068(2) (1-1-21 Edition).

(23) By continuing to make owner disbursements even when rent was not actually received Mock violated ORS 696.301(12) (2019 Edition) and ORS 696.301(3) as it incorporates OAR 863-025-0027(3) (1/1/2020 Edition).

(24) By failing to provide the requested records to the Agency as required, Mock violated ORS 696.280(3) (2021 Edition), ORS 696.301(3) as it incorporates OAR 863-025-0035(2)(a)(b)(c) (1-1-21 Edition) and OAR 863-025-0027(8) (1-1-2021 Edition).

(25) By failing to disburse funds owed to the owner and provide a final accounting and failure to provide copies of all current rental or lease agreements within the required timeframe Mock violated ORS 696.301(3) as it incorporates OAR 863-025-0070(2)(a)(b)(A)(B)(E) (1-1-21 Edition).

(26) By failing to provide monthly owner statements to Dharmazi, Mock violated ORS 696.301(3) as it incorporates OAR 863-025-0055(4) (1-1-18, 1-1-19, 1-1-20 Editions).

(27) By failing to provide the owner with all obligated funds within the required timeframe Mock violated ORS 696.301(3) as it incorporates OAR 863-025-0070(2)(a) (1-1-21 Edition).

(28) By failing to provide the requested records to the Agency as required, Mock violated ORS 696.301(12) (2021 Edition), ORS 696.301(3) as it incorporates ORS 696.280(3) (2021 Edition) and OAR 863-025-0035(2)(a)(c) (1-1-21 Edition).

(29) By failing to keep a current email address on file with the Agency Mock violated ORS 696.301(3) as it incorporates OAR 863-014-0062(1) (1-1-21 Edition).

(30) Each of the above demonstrates incompetence or untrustworthiness in violation of ORS 696.301(12) (2013, 2015, 2017, 2019 and 2021 Editions). Revocation of Mock's property manager license is license is appropriate under ORS 696.396(2)(c)(B).

ORDER

IT IS HEREBY ORDERED that Mock's property manager license is revoked.

Dated this 1st day of June, 2022.

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 Mailing

On June 1, 2022, I mailed and emailed the foregoing Final Order by Default issued on this date in OAH Case No. 2022-ABC-05109 and Agency Cases# 2020-19, 2020-253, 2021-516, and 2021-525.

By: First Class Mail

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