1	REAL ESTATE AGENCY
2	BEFORE THE REAL ESTATE COMMISSIONER
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4	In the Matter of the Real Estate License of
5	}
6	GERALD T. PAPENHEIM
7	{
8	<u>}</u>
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10	The Oregon Real Estate Agency (Agency) and Gerald T. Papenheim (Papenheim) 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 At all times mentioned herein, Papenheim was licensed as a principal broker with
20	Papenheim Properties.
21	1.2 On March 9, 2022, Papenheim self-reported a criminal conviction to the Agency.
22	The Agency opened an investigation.
23	1.3 On October 7, 2022, through the Deschutes County Circuit Court, Papenheim
24 25	was charged with Criminal Trespass in the First Degree and Criminal Trespass in the Second
25 26	Degree.
20 27	1.4 On January 25, 2022, Papenheim was convicted of Criminal Trespass in the
27	Second Degree through the Deschutes County Circuit Court, based on a no contest plea on December 9, 2021. Per the Judgment, Papenheim was ordered to complete 8 hours of
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29 30	community service and pay a fine of \$200.00. 1.5 On July 22, 2021, a deputy sheriff from the Deschutes County Sheriff's Office
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was dispatched to contact Brian Abendroth (Abendroth) regarding a trespasser at his
residence located at 18920 River Woods Dr., Bend, Oregon (subject property). Abendroth
reported two males entered the property for an unknown reason. Abendroth told officers he
had three separate no trespassing signs on the driveway entering the property and a forth sign
on the gate leading to his backyard where the two men entered.

1.6 Papenheim told the sheriff that he was a licensed real estate broker in Oregon
and went to assess the property for possible purchase. Papenheim told the officer he didn't
see the no trespassing signs and was not aware the property was occupied. Papenheim
acknowledged to the sheriff he had made a mistake and never should have gone on the
subject property without permission from the owner or occupant.

1.7 During his interview with Agency Financial Investigator/Auditor Frank Leonard
Papenheim stated he did not enter the house and that he had only entered the front and rear
yard of the subject property.

**First Statement of Law:** ORS 696.301(11) authorizes the Commissioner to reprimand a licensee's real estate license who has been convicted of a felony or misdemeanor substantially related to the real estate licensee's trustworthiness or competence to engage in professional real estate activity.

First Conclusion of Law: On January 25, 2022, Papenheim was convicted of Criminal
Trespass in the Second Degree for his actions on or about July 22, 2021, in violation of ORS
696.301(11) (2021 Edition).

**Second Statement of Law:** ORS 696.301(12) authorizes the Commissioner to reprimand a licensee's real estate license who has demonstrated incompetence or untrustworthiness in performing any act for which the real estate licensee is required to hold a license.

Second Conclusion of Law: On July 22, 2021, Papenheim walked onto and around
the subject property without permission of the owner, in violation of ORS 696.301(12) (2021
Edition).

Third Findings of Fact:

1.8 On March 9, 2022, Pepenheim self-reported his criminal conviction to the Agency43 days after the signed judgment which was issued on January 25, 2022.

Third Statement of Law: ORS 696.301(3) authorizes the Commissioner to reprimand a 1 2 licensee's real estate license who has disregarded or violated any provision of ORS 659A.421, 3 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of the Real Estate Agency. Implementation of ORS 696.301(3) is made through OAR 863-015-4 0175(1)(a)(b)(c)(4) (1-1-2021 Edition) which states: (1) A real estate licensee must notify the 5 Commissioner of the following: (a) Any criminal conviction (felony or misdemeanor), including 6 7 a "no contest" plea or bail forfeiture; (b) Any adverse decision or judgment resulting from any 8 civil or criminal suit or action or arbitration proceeding or any administrative or Oregon State 9 Bar proceeding related to the licensee in which the licensee was named as a party and against 10 whom allegations concerning any business conduct or professional real estate activity is 11 asserted; and (c) Any adverse decision or judgment resulting from any other criminal or civil 12 proceeding that reflects adversely on the "trustworthy and competent" requirements contained in ORS Chapter 696 and its implementing rules; and (4) the notification required by this rule 13 must be made within twenty 20 calendar days after receiving written notification of an adverse 14 judgment, award, or decision described in this rule. Notification must be made under this rule 15 16 whether or not the decision is appealed.

**Third Conclusion of Law:** By reporting the conviction 43 days after the judgment was issued, Papenheim violated ORS 696.301(3) and its implementing rule OAR 863-015-0175(1)(a)(b)(c)(4) (1-1-2021 Edition).

## Fourth Findings of Fact:

1.9 In the above violations Papenheim demonstrated conduct below the standard of care for the practice of professional real estate activity in Oregon.

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

Forth Conclusion of Law: In the above violations Papenheim 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) (2021 Edition).

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**Fifth Conclusion of Law:** The forgoing violations are grounds for discipline pursuant to ORS 696.301(3), (11), (12) and (15). Based on these violations a reprimand is appropriate for violations of ORS 696.301(3), (11), (12) and (15). As previously noted, the Agency has set forth the grounds of discipline as ORS 696.301(3), (11), (12) 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.

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, Gerald T. Papenheim, 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.

In addition to all of the above, I agree that once the Commissioner executes this
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.

ORDER

IT IS HEREBY ORDERED that Gerald T. Papenheim's principal broker license be, and hereby is reprimanded.

IT IS SO STIPULATED:

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 DocuSigned by:

GERALD T. PAPENHEIM

Date 7/29/2022 | 9:49 AM PDT

IT IS SO ORDERED:



Date 8/1/2022 | 7:43 AM PDT

Date of Service: \_08/01/2022

5 of 5 – Stipulated Final Order- Gerald T. Papenheim