REAL ESTATE AGENCY 1 BEFORE THE REAL ESTATE COMMISSIONER 2 3 4 In the Matter of the Escrow Agent License of 5 TICOR TITLE COMPANY OF OREGON STIPULATED FINAL ORDER 6 7 8 9 10 The Oregon Real Estate Agency (Agency) and Ticor Title Company of Oregon (Ticor) 11 do 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 696.505. 18 First Findings of Fact: 19 At all times mentioned herein, Ticor was licensed as an escrow agent in Oregon. 1.1 20 1.2 On August 19, 2021, the Agency received a complaint from Mark Johnson, 21 against Ticor. The Agency opened an investigation. 22 1.3 In 2006 Johnson purchased property located at 16801 NE Oregon St., in 23 Portland (NE Oregon) and obtained two mortgage loans. One loan for \$228,000.00, and the 24 second for \$57,000.00. 25 1.4 In October 2017, Johnson accepted an offer to purchase NE Oregon from 26 Nikolay Malimon (Malimon) and escrow was opened with Ticor on the transaction. 27 1.5 On October 13, 2017, Ticor issued a Preliminary Title Report which identified the 28 two mortgage liens against NE Oregon. 29 On October 20, 2017, Johnson signed a Seller Information Sheet on which he 30 listed only the first mortgage lien on NE Oregon.

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- 1.7 On October 27, 2017, Ticor noted in an email to Johnson that a second mortgage lien was attached to the title report and asked Johnson to provide them with any loan information he had. On October 30, 2017, Johnson signed the completed Statement of Information and again listed only the first mortgage lien against NE Oregon.
- 1.8 On November 9, 2017, Ticor issued an updated Preliminary Title Report which still showed two mortgage liens against the property.
- 1.9 On November 15, 2017, the transaction for NE Oregon closed, Ticor paid off the first mortgage lien but did not pay off the second lien. Ticor issued the owner's title policy and Chicago Title Insurance Company (Chicago) acted as the underwriter.
- 1.10 On November 16, 2017, Ticor disbursed the remaining closing proceeds to Johnson.
- 1.11 On January 24, 2018, a claim was tendered to Chicago on behalf of Malimon after the lienholder demanded payment for the unsatisfied/unreleased second mortgage lien. Chicago paid \$55,781.38 to satisfy and release the second lien.
- 1.12 Chicago sent several written notices to Johnson in an attempt to recover the \$55,781.38 for the second mortgage lien. On November 16, 2020, Chicago filed a complaint against Johnson to recover funds paid by Chicago to satisfy the second mortgage lien.

First Statement of Law: ORS 696.535(1)(b)(h) authorizes the Commissioner to discipline an escrow agent's license if the escrow agent: (b) demonstrated untrustworthiness or incompetence to transact the business of an escrow agent; (h) failed to deliver within a reasonable time to persons entitled to receive funds, property or documents or other things of value held or agreed to be delivered by the license, as and when paid for and due to be delivered. Per ORS 696.585(1) any persons who violates any provision of ORS 696.505 to 696.590, or any lawful rule or final order of the Real Estate Commissioner or any final judgement made by any court upon application of the commissioner, may be required to forfeit and pay to the General Fund of the State Treasury, a civil penalty in an amount determined by the commissioner of not more than \$3,000 for each offense. Each violation shall be deemed a separate offense.

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First Conclusion of Law: By failing to address and pay off the second mortgage lien on the NE Oregon property, Ticor violated ORS 696.535(1)(b)(h) (2015 Edition) and is subject to a civil penalty per ORS 696.585.

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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

Ticor has read and reviewed this Stipulated Final Order and its Findings of Fact, Statements of Law and Conclusions of Law. Ticor understands 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 Ticor. Ticor further understands that if Ticor does not agree with this stipulation Ticor has the right to request a Hearing on this matter and to be represented by legal counsel at such a Hearing. Ticor also understands 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.

Ticor hereby agrees and stipulates to the above Findings of Fact and Conclusions of Law and understands that the Order which follows hereafter, which Ticor has also read and understands, may be completed and signed by the Real Estate Commissioner or may be rejected by the Real Estate Commissioner. By signing this Stipulated Final Order, if the Order is agreed to and signed by the Real Estate Commissioner, Ticor has freely and voluntarily waived Ticor's rights to a Hearing, to representation by legal counsel at such a Hearing and to judicial review of this matter. Ticor further understands 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, Ticor agrees that once the Commissioner executes this Stipulated Final Order, Ticor will accept service of the Stipulated Final Order by email, and hereby waive the right to challenge the validity of service.

IT IS HEREBY ORDERED that, pursuant to ORS 696.585 and based upon the violation(s) set forth above, Ticor pay a civil penalty in the sum of \$3,000.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to the OREA.

IT IS SO STIPULATED: IT IS SO ORDERED:

By Matthew London

Matthew London

Matthew London

Docusigned by:

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Steven Strode

Title President, County Manager Real Estate Commissioner

Ticor Title Company of Oregon

Date of Service: 03/17/2022