

REAL ESTATE AGENCY  
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of )  
FREDERICK WINTER ) STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Frederick Winter (Winter) do hereby agree and stipulate to the following:

FINDINGS OF FACT, STATEMENTS OF LAW  
AND  
CONCLUSIONS OF LAW

1.

In establishing the violations set forth herein, the Agency may rely on one or more of the definitions contained in ORS 696.010.

**First Findings of Fact:**

1.1 At all times mentioned herein, Winter was licensed as a property manager doing business under the registered business name of Sellwood Remodeling & Management LLC.

1.2 On September 10, 2020, Winter was asked to take part in clients' trust account review for account ending in #0943, which held owner funds. Winter provided documents in a timely manner. An investigation was opened due to the outstanding issues found in the review.

1.3 On June 23, 2021, Agency Investigator/Financial Auditor Liz Hayes requested Winter to provide new reconciliation records for accounts ending in #0943 for April and May of 2021. Winter responded on July 6, 2021, with the requested reconciliation records.

1.4 The three parts of the April 2021 reconciliation did not balance. Parts II and III were \$1,000.00, and Part I was \$1,053,74. To explain the difference, Winter wrote, "Cumulative Rounding."

1           **First Statement of Law:** The Real Estate Commissioner may reprimand the real  
2 estate license of any real estate licensee if the licensee has disregarded or violated any  
3 provision of ORS 659A.421, ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to  
4 696.870 and 696.890 or any rule of the Agency. ORS 696.301(3) is implemented in part by  
5 OAR 863-025-0028(2)(b) and (4) which states: (2) A property manager must reconcile each  
6 clients' trust account within 30 calendar days of the date of the bank statement pursuant to the  
7 requirements contained in this section. (b) The balances of each component in section (2)(a) of  
8 this rule must be equal to and reconciled with each other. If any adjustment is needed, the  
9 adjustment must be clearly identified and explained in the reconciliation document. (4) A  
10 property manager must take corrective action to resolve all adjustments made in a  
11 reconciliation prior to the next reconciliation or document the good faith efforts the property  
12 manager has taken to resolve the adjustment.

13           **First Conclusion of Law:** The three parts of the April 2021 reconciliation for clients'  
14 trust account ending in #0943 did not balance and Winter noted "Cumulative Rounding" as the  
15 explanation, in violation of ORS 696.301 and its implementing rule OAR 863-025-0028(2)(b)  
16 and (4) (01/01/2021 Edition)

17           **Second Findings of Fact:**

18           1.5 Winter admitted he had not been regularly reconciling clients' trust account  
19 ending in #0943.

20           **Second Statement of Law:** ORS 696.301(3) authorizes the Commissioner to  
21 reprimand a licensee's real estate license who has disregarded or violated any provision of  
22 ORS 659A.421, ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and  
23 696.890 or any rule of the Real Estate Agency. Implementation of ORS 696.301(3) is made  
24 through OAR 863-025-0028(2) (01/01/2021 Edition) which states that a property manager  
25 must reconcile each client's trust account within 30 calendar days of the date of the bank  
26 statement pursuant to the requirements contained in this section.

27           **Second Conclusion of Law:** By failing to reconcile clients' trust account ending in  
28 #0943 monthly as required, Winter violated ORS 696.301(3) and its implementing rule OAR  
29 863-025-0028(2) (01/01/2021 Edition).

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1           **Third Findings of Fact:**

2           1.6     The adjustments made in Part I of the April 2021 reconciliation for clients' trust  
3 account ending in #0943 were not posted on the corresponding check register. Per Winter, he  
4 exports the bank statement monthly to create the check register.

5           **Third Statement of Law:** ORS 696.301(3) authorizes the Commissioner to reprimand a  
6 licensee's real estate license who has disregarded or violated any provision of ORS 659A.421,  
7 ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of  
8 the Real Estate Agency. Implementation of ORS 696.301(3) is made through OAR 863-025-  
9 0040(1) (01/01/2021 Edition), which states except as provided in section (4) of this rule, a  
10 property manager must prepare and maintain a chronological record of receipts and  
11 disbursements or a check register for each client's trust account and each security deposits  
12 account in which the manager must record each receipt of funds and each disbursement of  
13 funds.

14           **Third Conclusion of Law:** By failing to make the adjustments noted in Part I of the  
15 April 2021 reconciliation on the corresponding check register Winter violated ORS 696.301(3)  
16 and its implementing rule OAR 863-025-0040(1) (01/01/2021 Edition).

17           **Fourth Findings of Fact:**

18           1.7     Some of the entries on the check register for clients' trust account ending in  
19 #0943 lacked the required detail noting the purpose of the disbursement.

20           **Fourth Statement of Law:** ORS 696.301(3) authorizes the Commissioner to reprimand  
21 a licensee's real estate license who has disregarded or violated any provision of ORS  
22 659A.421, ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or  
23 any rule of the Real Estate Agency. Implementation of ORS 696.301(3) is made through OAR  
24 863-025-0040(2)(b)(D) which states: (2) a record of receipts and disbursements or a check  
25 register must contain at least the following information: (b) for each disbursement of funds: (D)  
26 the purpose of the disbursement.

27           **Forth Conclusion of Law:** The check register failed to note the purpose of the  
28 disbursements, which is a violation ORS 696.301(3) and its implementing rule OAR 863-025-  
29 0040(2)(b)(D) (01/01/2021 Edition).

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1           **Fifth Findings of Fact:**

2           1.8     The deposits noted on the check register appeared to be an aggregated total.

3           1.9     Winter provided copies of his deposit slips which were used as a separate report  
4 noting the individual deposits and the owner's name. These records lacked the purpose of the  
5 funds, and the identity of the person who tendered the funds.

6           **Fifth Statement of Law:** ORS 696.301(3) authorizes the Commissioner to reprimand a  
7 licensee's real estate license who has disregarded or violated any provision of ORS 659A.421,  
8 ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of  
9 the Real Estate Agency. Implementation of ORS 696.301(3) is made through OAR 863-025-  
10 0040(6)(b) (01/01/2021 Edition) which states: (6) A property manager may aggregate  
11 individual deposits or individual disbursements and record the aggregated total in the record of  
12 receipts and disbursements or check register only if the property manager: (b) Maintains a  
13 separate report that details the individual deposits or disbursements, which states the  
14 information for each deposit and disbursement as required in section (2) of this rule.

15           **Fifth Conclusion of Law:** The check register contained aggregate deposits and the  
16 deposit slips which were used as a separate report detailing the individual deposits failed to  
17 note the purpose of the funds and the identity of the person who tendered the funds in violation  
18 of ORS 696.301(3) and its implementing rule OAR 863-025-0040(6)(b) (01/01/2021 Edition).

19           **Sixth Findings of Fact:**

20           1.10    According to the check register, Winter was paid \$10,031.70 in April 2021 and  
21 \$11,491 in May 2021 for property management and maintenance fees. This total amount paid  
22 did not equal the property management fees noted on the individual owner ledgers.

23           1.11    Per Winter, he said in addition to collecting his property management fee, he is  
24 also paid for maintenance and was reimbursed for expenses paid out of his business account  
25 to pay vendors. Winter stated everything is posted on the corresponding ledger account.

26           1.12    On July 20, 2021, Winter submitted a copy of the individual owner ledgers,  
27 highlighting his management fee payments and reimbursements. Based on the highlighted  
28 items provided by Winter, he was paid \$459.70 more in April 2021 and \$349.00 more in May  
29 2021 than what was accounted for on the corresponding owners' ledgers.

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1           **Sixth Statement of Law:** ORS 696.301(3) authorizes the Commissioner to reprimand a  
2 licensee's real estate license who has disregarded or violated any provision of ORS 659A.421,  
3 ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of  
4 the Real Estate Agency. Implementation of ORS 696.301(3) is made through OAR 863-025-  
5 0040(5) and OAR 863-025-0055(4) (01/01/2021 Edition). OAR 863-025-0040(5) states, upon  
6 any activity, the property manager must record each receipt, deposit, or disbursement as  
7 required in this rule and record each deposit or disbursement on the corresponding owner's  
8 ledger as required in OAR 863-025-0055 and/or tenant's ledger as required in 863-025-0050.  
9 OAR 863-025-0055(4) (01/01/2021 Edition) states in part a property manager must report in  
10 writing to each owner any change in the owner's ledger. A monthly report, showing all receipts  
11 and disbursements for the account of the owner during the prior monthly period, is sufficient  
12 under this section.

13           **Sixth Conclusion of Law:** According to the April 2021 and May 2021 check register,  
14 Winter was paid \$808.70 more than what was accounted for on the corresponding owners'  
15 ledgers in violation of ORS 696.301(3) and its implementing rules OAR 863-025-0040(5)  
16 (01/01/2021 Edition) and OAR 863-025-0055(4) (01-1-2021 Edition).

17           **Seventh Findings of Fact:**

18           1.13 Adjustments noted in Part I of the June 2021 Reconciliation of clients' trust  
19 account ending in #0943 were not posted and accounted for on the check register.

20           **Seventh Statement of Law:** ORS 696.301(3) authorizes the Commissioner to  
21 reprimand a licensee's real estate license who has disregarded or violated any provision of  
22 ORS 659A.421, ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and  
23 696.890 or any rule of the Real Estate Agency. Implementation of ORS 696.301(3) is made  
24 through OAR 863-025-0035(3)(b) (01/01/2021 Edition) which states: (3) if a property manager  
25 uses a computerized system for creating, maintaining and producing required records and  
26 reports: (b) posting of owner ledgers, record of receipts and disbursements, tenant ledgers and  
27 manipulation of information and documents must be maintained in a format that will readily  
28 enable tracking and reconciliation.

29           **Seventh Conclusion of Law:** By failing to post and account for the adjustments noted  
30 on June 2021 reconciliation for clients' trust account ending in #0943 on the check register

1 Winter violated ORS 696.301(3) and its implementing rule OAR 863-025-0035(3)(b)  
2 (01/01/2021 Edition).

3 **Eighth Findings of Fact:**

4 1.14 On the bank statement, clients' trust account ending in #0943 was named,  
5 "Sellwood Remodeling & Management LLC Specncer Client Trust Operations." In the Agency  
6 licensing system, the account name was entered as "Spencer Client Trust Operations."

7 1.15 Winter's security deposit account registered with the Agency was noted as,  
8 "Spencer Client Trust Security Deposits."

9 1.16 Throughout the reconciliation review and subsequent investigation, Winter was  
10 asked to update the naming conventions for his clients' trust accounts.

11 1.17 However, as of September 21, 2021, the registered clients' trust account names  
12 had not been updated.

13 **Eighth Statement of Law:** ORS 696.301(3) authorizes the Commissioner to reprimand  
14 a licensee's real estate license who has disregarded or violated any provision of ORS  
15 659A.421, ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or  
16 any rule of the Real Estate Agency. Implementation of ORS 696.301(3) is made through OAR  
17 863-025-0025(1)(a) and (b) (01/01/2021 Edition), which states: (1) All clients' trust accounts  
18 and security deposit accounts must be labeled on all bank records and checks as: (a) "Clients'  
19 Trust Account" or "Client Trust Account"; or (b) Clients' Trust Account – Security Deposit," or  
20 "Client Trust Account SD.

21 **Eighth Conclusion of Law:** By failing to properly name the clients' trust account and  
22 security deposits account, Winter violated ORS 696.301(3) and its implementing rule OAR  
23 863-025-0025(1)(a) and (b) (1/01/2021 Edition).

24 **Ninth Conclusion of Law:** The forgoing violations are grounds for discipline pursuant  
25 to ORS 696.301(3). Based on these violations a reprimand is appropriate for violations of ORS  
26 696.301(3). As previously noted, the Agency has set forth the grounds of discipline as ORS  
27 696.301(3).

28 2.

29 According to ORS 696.775, the lapsing, expiration, revocation or suspension of a real  
30 estate license, whether by operation of law, order of the Real Estate Commissioner or decision

1 of a court of law, or the inactive status of the license, or voluntary surrender of the license by  
2 the real estate licensee does not deprive the commissioner of jurisdiction to: (1) proceed with  
3 an investigation of the licensee; (2) conduct disciplinary proceedings relating to the licensee;  
4 (3) Take action against a licensee, including assessment of a civil penalty against the licensee  
5 for a violation of ORS 696.020(2); or (4) revise or render null and void an order suspending or  
6 revoking a license.

7 3.

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

10 4.

11 STIPULATION AND WAIVER

12 I, Frederick Winter, have read and reviewed this Stipulated Final Order and its Findings  
13 of Fact, Statements of Law and Conclusions of Law. I understand that the Findings of Fact,  
14 Conclusions of Law and this Stipulation and Waiver of Hearing rights embody the full and  
15 complete agreement and stipulation between the Agency and me. I further understand that if I  
16 do not agree with this stipulation I have the right to request a Hearing on this matter and to be  
17 represented by legal counsel at such a Hearing. I also understand that any Hearing would be  
18 conducted in accordance with the procedures set forth in ORS Chapter 183 and in accordance  
19 with the Rules of Practice and Procedure adopted by the Attorney General of the State of  
20 Oregon. By signing this Stipulated Final Order I freely and voluntarily waive my rights to a  
21 Hearing, to representation by legal counsel at such a Hearing, and to judicial review of this  
22 matter.

23 I hereby agree and stipulate to the above Findings of Fact and Conclusions of Law and  
24 understand that the Order which follows hereafter, which I have also read and understand,  
25 may be completed and signed by the Real Estate Commissioner or may be rejected by the  
26 Real Estate Commissioner. I further understand that, in accordance with the provisions of  
27 ORS 696.445(3), notice of this Order shall be published in the Oregon Real Estate News  
28 Journal.

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1 In addition to all of the above, I agree that once the Commissioner executes this  
2 Stipulated Final Order, I will accept service of the Stipulated Final Order by email, and hereby  
3 waive the right to challenge the validity of service.

4 ORDER

5 IT IS HEREBY ORDERED that Frederick Winter's property manager license be, and  
6 hereby is reprimanded.

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9 IT IS SO STIPULATED:

IT IS SO ORDERED:



11 DocuSigned by:  
12 *Fred O Winter*  
FF45A86B9DAF4AD...

DocuSigned by:  
*Steven Strode*  
E2C2D0097AD8471...

13 FREDERICK WINTER

STEVEN STRODE

Real Estate Commissioner

14  
15 Date 12/31/2021 | 3:00 PM PST

Date 1/3/2022 | 8:13 AM PST

16  
17 Date of Service: 01/03/2022

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