

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of
AMBER LEE EKWALL)
STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Amber Ekwall (Ekwall) 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 Ekwall was licensed as property manager with Lithia Property Management.

1.2 On February 4, 2022, Ekwall was notified that her clients' trust account ending in ending in #0069 (CTA-SD #0069), which held security deposits, had been selected for a reconciliation review. The reconciliation documents requested were due within 10 business days. Ekwall failed to respond to the February 4, 2022, email request.

1.3 On February 25, 2022, Agency Compliance Specialist Jenifer Wetherbee (Wetherbee) sent a second email to Ekwall.

1.4 On March 4, 2022, Ekwall emailed Wetherbee that the Oregon Department of Revenue (ODOR) had garnished \$3,363.17 from CTA-SD #0069 in January 2020. Wetherbee responded to Ekwall's email and asked that she proceed with providing the requested documents that were requested by the Agency on February 4, 2022, and February 25, 2022.

1.5 On March 15, 2022, Ekwall uploaded reconciliation documents to the Agency eLicense system.

1 1.6 On March 28, 2022, Wetherbee emailed Ekwall a request for reconciliation
2 documents that were requested in the February 4, 2022, email and not provided by Ekwall.

3 1.7 On April 2, 2022, Ekwall provided the missing documents. Upon review, CTA-SD
4 #0069, appeared to be short \$1,250.18.

5 1.8 During the reconciliation review it was discovered that Ekwall's license was
6 inactive between November 1, 2018, and May 27, 2020, and reconciliation documents showed
7 Ekwall was engaging in professional property management activity during this time.

8 1.9 On April 21, 2022, an investigation was opened due to the issues found in the
9 reconciliation review.

10 1.10 On October 1, 2018, and October 25, 2018, the Agency sent emails notifying
11 Ekwall that her license would expire at the end of October.

12 1.11 On November 1, 2018, Ekwall's license expired. The same day, the Agency sent
13 an email stating the license had expired.

14 1.12 On October 31, 2019, Ekwall submitted a renewal application to the Agency.
15 Ekwall's license was expired from November 1, 2018, through October 30, 2019, 363 days.
16 After renewing her property manager license on October 31, 2019, Ekwall neglected to
17 associate her license with her registered business name.

18 1.13 On November 1, 2019, and November 10, 2019, the agency sent emails notifying
19 Ekwall that she needed to transfer her license to a registered business name, or her license
20 would become inactive. Ekwall did not associate her license with a registered business name
21 and her license was inactive from October 31, 2019, through June 2, 2020, 215 days.

22 1.14 On June 21, 2022, Agency Investigator/Financial Auditor Cidia Nañez (Nañez)
23 emailed Ekwall requesting a copy of a tenant rental agreement because reconciliation
24 documents showed a lease start date of October 5, 2019, for that property, which would have
25 been during the timeframe Ekwall's license was expired.

26 1.15 On June 28, 2022, Ekwall sent the requested tenant rental agreement which
27 showed it was signed by Ekwall on October 5, 2019, while her license was expired.

28 1.16 Agency records showed that Ekwall received five license renewal reminders
29 between October 1, 2018, and October 1, 2019. The emails were sent to her email address of
30 record with the Agency.

1 1.17 Ekwall was conducting professional property management activity without an
2 active license for a total of 578 days.

3
4 **First Statement of Law:**

5 ORS 696.020(2) states an individual may not engage in, carry on, advertise or purport
6 to engage in or carry on professional real estate activity, or act in the capacity of a real estate
7 licensee, within this state unless the individual holds an active license as provided for in this
8 chapter.

9 ORS 696.990(4)(a) and (b) states: (4) Any person that violates ORS 696.020(2) may be
10 required by the Real Estate Commissioner to forfeit and pay to the General Fund of the State
11 Treasury a civil penalty in an amount determined by the commissioner of:

12 (a) Not less than \$100 nor more than \$500 for the first offense of unlicensed professional real
13 estate activity; and (b) Not less than \$500 nor more than \$1,000 for the second and
14 subsequent offenses of unlicensed professional real estate activity.

15 ORS 696.990(9) states for the purposes of subsection (4) of this section, any violation
16 of ORS 696.020(2) that results from a failure of a real estate licensee to renew a license within
17 the time allowed by law constitutes a single offense of unlicensed professional real estate
18 activity for each 30-day period after expiration of the license during which the individual
19 engages in professional real estate activity. A civil penalty imposed for a violation of ORS
20 696.020(2) that results from a failure of a real estate licensee to renew a license within the time
21 allowed by law is not subject to the minimum dollar amounts specified in subsection (4) of this
22 section.

23 **First Conclusion of Law:** By conducting professional real estate activity over the
24 course of 578 days without an active license, Ekwall violated ORS 696.020(2) (2017, 2019 and
25 2020 Editions) and is subject to discipline or civil penalty pursuant to ORS 696.990(4) and (9).

26
27 **Second Findings of Fact:**

28 1.18 Ekwall answered “No” in response to question 16 on the renewal application “At
29 any time during the past 24 months, while holding an inactive or expired license, have you
30 conducted professional real estate activity?” In review of Ekwall’s reconciliation records, she

1 was engaged in professional property management activity from November 1, 2018, through
2 October 30, 2019, 363 days.

3 **Second Statement of Law:**

4 ORS 696.301(12) authorizes the Commissioner to reprimand a licensee's real estate
5 license who has demonstrated incompetence or untrustworthiness in performing any act for
6 which the real estate licensee is required to hold a license.

7 **Second Conclusion of Law:** By answering no to the renewal application question "At
8 any time during the past 24 months, while holding an inactive or expired license, have you
9 conducted professional real estate activity?", Ekwall violated ORS 696.301(12) (2019 Edition)

10 **Third Findings of Fact:**

11 1.19 On June 21, 2022, Nañez emailed Ekwall to request documents, including her
12 most recent monthly reconciliations for both CTA-SD #0069 and clients' trust account ending in
13 #0085 (CTA #0085), which held owner funds.

14 1.20 On June 28, 2022, Ekwall emailed Nañez and in that email disclosed that that the
15 account ending in #0069 was short due to the ODOR garnishment and a lawyer garnishment.
16 Prior to that email Ekwall had only disclosed the ODOR garnishment. In separate emails
17 Ekwall provided documentation for two garnishments. The first included a letter from Wells
18 Fargo that stated they were served with a legal order to deduct \$241.09 from Ekwall's account.
19 Wells Fargo withdrew the money from CTA-SD #0069 on April 18, 2019. In addition, Wells
20 Fargo charged CTA-SD #0069 with a \$125 nonrefundable processing fee. The other email
21 from Ekwall included a letter from Wells Fargo that stated they were served with a legal order
22 to deduct \$3,363.07 from Ekwall's account. Wells Fargo withdrew the money from CTA-SD
23 #0069 on January 13, 2020. A \$125 nonrefundable processing fee was also charged to the
24 account.

25 1.21 On July 20, 2022, Nañez emailed Ekwall requesting proof that CTA-SD #0069
26 had been replenished. Requested documents were due July 22, 2022. Ekwall did not provide
27 this documentation.

28 **Third Statement of Law:** ORS 696.890(4)(c)(d)(e) (2019 Edition) states (4) a real
29 estate property manager owes the property owner the following affirmative duties: (c) exercise
30 reasonable care and diligence; (d) account in a timely manner for all funds received from or on
behalf of the owner; and (e) act in a fiduciary manner in all matters relating to trust funds.

1 **Third Conclusion of Law:** By failing to replenish the fund in CTA-SD #0069 after the
2 account was garnished on April 18, 2019, in the amount of \$241.09 and again on January 13,
3 2020, in the amount of \$ 3,363.07 inclusive of \$250 in bank fees each for a total of \$ 3,854.16,
4 Ekwall violated ORS 696.890(4)(c)(d)(e) (2019 Edition)

5 **Fourth Findings of Fact:**

6 1.22 The November 2021 Trust Account Reconciliation report for CTA-SD #0069
7 showed the balance of the three components did not equal and reconcile with each other.

8 1.23 The April 2022 Trust Account Reconciliation report for CTA-SD #0069 showed
9 the balance of the three components did not equal and reconcile with each other, and there
10 was no explanation of the differences.

11 **Fourth Statement of Law:** The Real Estate Commissioner may reprimand the real
12 estate license of any real estate licensee if the licensee has disregarded or violated any
13 provision of ORS 659A.421, ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to
14 696.870 and 696.890 or any rule of the Agency. ORS 696.301(3) is implemented in part by
15 OAR 863-025-0028(3)(b): (3) A property manager must reconcile each security deposits
16 account within 30 calendar days of the bank statement date pursuant to the requirements
17 contained in this section. (b) The balances of each component in section (3)(a) of this rule
18 must be equal to and reconciled with each other. If any adjustment is needed, the adjustment
19 must be clearly identified and explained on the reconciliation document.

20 **Fourth Conclusion of Law:** The three parts of the November 2021 and April 2022
21 reconciliations for CTA-SD #0069 did not balance and Ekwall failed to provide explanations for
22 why the three parts did not balance, as a result, Ekwall violated OAR 863-025-0028(3)(b)
23 (1/1/2021 Edition) which states, a property manager must reconcile each security deposit
24 account within 30 calendar days of the bank statement and the balances of each component
25 must be equal to and reconciled with each other. Additionally, if any adjustment is needed, the
26 adjustment must be clearly identified and explained on the reconciliation document.

27 **Fifth Findings of Fact:**

28 1.24 On June 21, 2022, Nañez emailed Ekwall to request documents, including her
29 most recent monthly reconciliations for both CTA-SD #0069 and CTA #0085, which held owner
30 funds.

1 According to ORS 696.775, the lapsing, expiration, revocation or suspension of a real
2 estate license, whether by operation of law, order of the Real Estate Commissioner or decision
3 of a court of law, or the inactive status of the license, or voluntary surrender of the license by
4 the real estate licensee does not deprive the commissioner of jurisdiction to: (1) proceed with
5 an investigation of the licensee; (2) conduct disciplinary proceedings relating to the licensee;
6 (3) Take action against a licensee, including assessment of a civil penalty against the licensee
7 for a violation of ORS 696.020(2); or (4) revise or render null and void an order suspending or
8 revoking a license.

9 3.

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

12 4.

13 STIPULATION AND WAIVER

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

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

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

1 Stipulated Final Order, I will accept service of the Stipulated Final Order by email, and hereby
2 waive the right to challenge the validity of service.

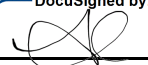
3 ORDER

4 IT IS HEREBY ORDERED that Amber Ekwall’s property manager license be, and
5 hereby is reprimanded.

6
7 IT IS FURTHER ORDERED that pursuant to ORS 696.990(1) to (9) and based upon the
8 violation set forth above, Ekwall pay a civil penalty in the sum of \$5,100.00, said penalty to be
9 paid to the General Fund of the State Treasury by paying the same to the Agency. The civil
10 penalty is computed in accordance with ORS 696.990(4) and (9) in that each 30-day period of
11 unlicensed activity is considered one violation. In this instance, there were seventeen, 30-day
12 periods of unlicensed activity, however, the Agency has excluded six 30-day periods from the
13 civil penalty per the settlement agreement.

14
15
16 IT IS SO STIPULATED:

IT IS SO ORDERED:

17
18 DocuSigned by:
19 
20 _____
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DocuSigned by:
21 
22 _____
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23 STEVEN STRODE



24 Real Estate Commissioner

25 Date 02/06/2023

26 Date 2/7/2023 | 7:29 AM PST

27 Date of Service: 02/07/2023