REAL ESTATE AGENCY 1 BEFORE THE REAL ESTATE COMMISSIONER 2 3 4 In the Matter of the Real Estate License of 5 STIPULATED FINAL ORDER **KEVIN LOREN HALE** 6 7 8 9 10 The Oregon Real Estate Agency (Agency) and Kevin Hale (Hale) do hereby agree and 11 stipulate to the following: 12 FINDINGS OF FACT 13 AND 14 CONCLUSIONS OF LAW 15 1. 16 1.1 At all times mentioned herein, Hale was licensed as a real estate broker with 17 Coldwell Banker Farley Company. 18 1.2 On March 28, 2023, the Agency received a complaint from Frances Barnett (F. 19 Barnett) and Donald Barnett (D. Barnett) against Hale. The Agency opened an investigation. 20 1.3 Hale represented both the Barnetts, as buyers, and Paul Weston (P. Weston) 21 and Katie Weston, as sellers, in the sale of a property in Pendleton, OR (the Property). 22 1.4 Closing documents for the Property were signed on March 28, 2022. 23 1.5 In the complaint, the Barnetts stated that on April 5, 2022, Hale electronically 24 signed F. Barnett's signature via DocuSign on the seller's property disclosure statement, 25 vacant land addendum, and lead-based paint addendum. The incorrect spelling of F. Barnett's 26 name on the document was noted. 27 1.6 A review of documents show that F. Barnett electronically signed Addendum # 28 Two on February 23, 2022, and D. Barnett electronically signed on March 10, 2022. 29 Addendum # Three was electronically signed by F. Barnett on March 7, 2022, and D. Barnett 30

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on March 10, 2022. Addendum # Four and Seller's Repair Addendum were both electronically signed by F. Barnett only on March 7, 2022.

- A review of the Residential Real Estate Sales Agreement (PSA) shows the Westons initialed each page and signed the acceptance page. F. Barnett initialed each page and signed the acceptance page for herself and D. Barnett.
- 1.8 A review of the Lead Based Paint Disclosure Addendum, Seller's Property Disclosure, and Vacant Land Disclosure Addendum show that they were electronically signed by "Francis Barnett" and Hale on April 5, 2022. They were not signed by D. Barnett.
- In a response to the complaint, Hale stated that he did sign the DocuSign documents on behalf of F. Barnett on April 5, 2022, and was "shocked" when he discovered he had. Hale stated that he includes himself on his DocuSign packages and this showed that he emailed the buyer signing to himself. Hale stated he had no explanation or recollection for doing this, but that there was no intent to do harm or ill will.
- Section 12 of the PSA states that if a property was constructed prior to 1978, then on or promptly after the Effective Date, seller will deliver to buyer OREF 021 Lead-Based Paint Disclosure Addendum, along with the EPA pamphlet entitled "Protect Your Family From Lead in Your Home." This section also provides the buyer with 10-calendar days to conduct a lead-based paint inspection and allows for termination of the agreement at any time during the 10-day period.
- 1.11 In an interview with Agency Investigator Dylan Ray (Ray) on July 26, 2023, when asked if copies of the disclosures were sent to the Barnetts after they were signed on April 5, 2022, Hale said no, because he thought it was sent to F. Barnett when the DocuSign was completed. Hale said he provided F. Barnett with a folder that included the disclosures at the time F. Barnett signed the PSA.
- 1.12 F. Barnett told Agency Investigator Aaron Grimes (Grimes) that she did not see the disclosures prior to receiving them on November 29, 2022.
- **(1)** Conclusion of Law: By electronically signing copies of the Lead Based Paint Disclosure Addendum, Seller's Property Disclosure Statement, and Vacant Land Disclosure Addendum on behalf of the buyers, Hale violated ORS 696.301(3) as it incorporates ORS ORS 696.815(2)(b)(5)(b) (2021 Edition).

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- **(2) Conclusion of Law:** By failing to provide the Lead Based Paint Disclosure Addendum, Seller's Property Disclosure Statement, and Vacant Land Disclosure Addendum to the buyers, Hale violated ORS 696.301(3) and its implementing rule OAR 863-015-0135(9) (1/1/2023 Edition).
- 1.13 As part of their complaint, the Barnetts wrote that Hale knew of a property line issue and failed to disclose it to them.
- 1.14 In his response, Hale wrote that while meeting with the Westons, they requested that Hale insert their answers into the seller's property disclosure statement document. When Hale reviewed the disclosures with the Westons, they pointed out the property line and indicated it was "three or four feet" beyond the fence.
- 1.15 Hale wrote that the sellers gave him the impression that the property line was to the west of the Property along the fence line, but instead, it ended up running through the garage.
- 1.16 In an interview with Grimes on June 16, 2023, P. Weston said that he was aware there was a property line dispute most of the time they lived there. P. Weston said he told Hale the property lines were different than the fences.
- 1.17 In an interview with Ray, Hale confirmed that the Westons first pointed out the alleged property boundary on January 19, 2022, when meeting with the Westons at the property.
- 1.18 Hale stated that he thinks the sellers should have been clearer when describing the property line.
- 1.19 When asked by Ray if he had any intention of notifying the buyers about the property line issue when he was first told, Hale said he did not. Hale explained that he did not consider the property line being further than the fence. Hale thought the fence was the property line.
- (3) **Conclusion of Law:** By failing to notify the buyers of the property line discrepancy, Hale violated ORS 696.301(3) as it incorporates ORS 696.815(2)(b)(5)(b) (2021 Edition).

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All of the above demonstrates incompetence in performing acts for which the real estate licensee is required to hold a license and conduct that is below the standard of care for the practice of professional real estate activity in Oregon.

Conclusion of Law: Based on the foregoing, Licensee is subject to discipline under (4) ORS 696.301(12) and (15) (2021 Edition).

2.

- 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.
- 2.2 The Agency reserves the right to investigate and pursue additional complaints that may be received in the future regarding this licensee.
- In establishing the violations alleged above, the Agency may rely on one or more of the definitions contained in ORS 696.010.

3.

STIPULATION AND WAIVER

I, Kevin Hale, 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 1 Journal. 2 3 In addition to all of the above, I agree that once the Commissioner executes this 4 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. 5 6 ORDER 7 IT IS HEREBY ORDERED that Kevin Hale's broker license be, and hereby is reprimanded. 8 9 10 IT IS SO STIPULATED: IT IS SO ORDERED: 11 12 DocuSigned by: DocuSigned by: kevin Itale Steve Strode 13 31B77A4D08C9410...
KEVIN HALE 14 STEVEN STRODE 15 Real Estate Commissioner Date $1/12/2024 \mid 8:47 \text{ AM PST}$ Date 1/12/2024 | 9:33 AM PST 16 17 18 Date of Service: 1/12/2024 19 20 21 22 23 24 25 26 27 28 29 30