REAL ESTATE AGENCY 1 BEFORE THE REAL ESTATE COMMISSIONER 2 3 4 In the Matter of the Unlicensed Professional 5 Real Estate Activity of STIPULATED FINAL ORDER 6 7 THOMAS J. SHIMOTA 8 9 10 The Oregon Real Estate Agency (Agency) and Thomas Shimota (Shimota) do hereby 11 agree and stipulate to the following: 12 FINDINGS OF FACT 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 1.1 Shimota was a licensed real estate broker with Apex Real Estate Partners, LLC 19 (Apex), until September 1, 2022, when his license expired. 20 1.2 On March 2, 2022, the Oregon AFSCME Council 75 (AFSCME) signed a listing 21 agreement with Shimota to sell a property located in Portland, Oregon (Property). 22 1.3 On August 1, 2022, the Agency sent a renewal notification email to Shimota. On 23 August 25, 2022, the Agency sent a second renewal notification email to Shimota. 24 1.4 Shimota's license expired on September 1, 2022. 25 1.5 On September 7, 2022, Shimota paid to renew his broker license. The Agency 26 sent an email to Shimota informing him that his online renewal was successful. The email 27 informed Shimota that his license must be transferred to an RBN by a principal broker or 28 property manager in 30 days, or his license will go inactive. 29 AFSCME and Sparky Mack Investment Group, LLC entered into a purchase and 30 sale agreement for the Property on December 15, 2022.

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- 1.7 In an email to the Agency, Shimota's attorney Max Forer (Forer) stated that the person who was tasked with associating Shimota's license was out of the office the day Shimota requested to be reassociated.
- 1.8 Forer stated that Apex took immediate action when they discovered that Shimota's license was inactive.
- 1.9 On June 8, 2023, Shimota paid a reinstatement fee and his license was successfully reactivated that same day.
  - 1.10 Sale of the Property closed on June 16, 2023.
- (1) Conclusion of Law: By conducting professional real estate activity with an inactive license, Shimota violated ORS 696.020(2) (2021 Edition). Shimota is subject to a civil penalty under ORS 696.990(4)(a)(b) (2021 Edition).

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.

3.

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

4.

## STIPULATION AND WAIVER

I, Thomas Shimota, 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.

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ORDER IT IS HEREBY ORDERED that, pursuant to ORS 696.990 and based upon the violation set forth above, Shimota pay a civil penalty in the sum of \$500.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to the Agency. IT IS SO STIPULATED: IT IS SO ORDERED: DocuSigned by: DocuSigned by: THOMAS SHIMOTA Steve Strode STEVEN STRODE THOMAS SHIMOTA Real Estate Commissioner Date 1/17/2024 | 1:42 PM PST Date 1/24/2024 | 8:34 AM PST Date of Service: 1/24/2024