



# Oregon

Kate Brown, Governor

## AGENDA ITEM NO.

I.C.

Notice of Agenda

OREGON REAL ESTATE BOARD

Regular Meeting Agenda

Salishan Resort

7760 US-101

Glenden Beach, OR 97388

Real Estate Agency

Equitable Center

530 Center St. NE, Suite 100

Salem, Oregon 97301-2505

Phone: (503) 378-4170

Regulations Fax: (503) 373-7153

Admin. Fax: (503) 378-2491

[www.oregon.gov/rea](http://www.oregon.gov/rea)

**NOTE:** *The board plans to meet from 10 a.m. until 1:30 p.m., including a “working lunch” period.*

**I. BOARD BUSINESS – Chair Edwards**

- A. Call to Order
- B. Chair Edwards comments/Roll Call
- C. Approval of the Agenda and Order of Business
- D. Approval of 4.3.17, regular meeting minutes
- E. Date of the Next Meeting: 8.7.17, located at the Shilo Inn, 2500 Almond St., Klamath Falls, OR 97601 to begin at 10am.

**II. PUBLIC COMMENT – Chair Edwards**

- This time is set aside for persons wishing to address the Board on matters not on the agenda. Speakers will be limited to five minutes.
- The Board Chair reserves the right to further limit or exclude repetitious or irrelevant presentations. If written material is included, 12 copies of all information to be distributed to board members should be given to the Board Liaison prior to the meeting.
- Action will not be taken at this meeting on citizen comments. The Board, however, after hearing from interested citizens, may place items on a future agenda so proper notice may be given to all interested parties.
- If no one wishes to comment, the next scheduled agenda item will be considered.

**III. REQUESTS FOR WAIVERS – Chair Edwards. Waiver request log. None.**

**IV. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER– Chair Edwards - Approval of petition log.**

- A. Mason McDuffie Mortgage Corporation, Jesse Rivera will appear by phone.

**V. BOARD ADVICE/ACTION – Commissioner Bentley**

**VI. NEW BUSINESS – Chair Edwards**

- A. Discussion re: Request for Waiver decision process
- B. Discussion re: Qualifications and structure of property management licenses

**VII. COMMUNICATIONS – Administrative Actions Summary – Chair Edwards**

**VIII. REPORTS – Chair Edwards**

- A. Commissioner Gene Bentley
- B. Agency division reports-Deputy Commissioner Dean Owens
  1. Regulation Division – Selina Barnes
  2. Land Development Division – Dean Owens
  3. Education, Business and Technical Services Division – Anna Higley

**IX. ANNOUNCEMENTS – Chair Edwards.** Next board meeting: 8.7.17, located at the Shilo Inn, 2500 Almond St., Klamath Falls, OR 97601 to begin at 10am

**X. ADJOURNMENT – Chair Edwards**

**Interpreter services or auxiliary aids for persons with disabilities are available upon advance request.**



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## AGENDA ITEM NO.

I.D.

### Real Estate Agency

Equitable Center

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### State of Oregon Real Estate Agency

## REAL ESTATE BOARD

### Regular Meeting Minutes

April 3, 2017

#### MEMBERS PRESENT:

Marcia Edwards, Chair  
Jef Farley, Vice-Chair  
Coni Rathbone  
Dave Hamilton  
Lawnae Hunter  
Alex MacLean  
Dave Koch  
Pat Ihnat  
Joann Hansen

#### OREA STAFF PRESENT:

Gene Bentley, Commissioner  
Dean Owens, Deputy Commissioner  
Selina Barnes, Regulations Division Manager  
Maddy Alvarado, Customer Service Manager  
Mesheal Heyman, Communication Coordinator  
Leandra Hagedorn, Board Liaison

#### GUESTS PRESENT:

Lane Mueller, Keller Williams  
Shu Merritt, Keller Williams  
Jann Pate, Oregon Rental Housing Association  
John Wallace, Oregon Association of REALTORS®

#### I. BOARD BUSINESS-Chair Edwards

- A. **Call to Order.** Chair Edwards called the meeting to order at 10am
- B. **Chair Edwards comment/Roll Call.** Chair Edwards asked board liaison to take roll call, board members, OREA staff and audience members to introduce themselves.
- C. **Approval of Agenda and Order of Business.** Agenda and Order of Business were approved as submitted.

**MOTION TO APPROVE AGENDA AND ORDER OF BUSINESS AS SUBMITTED BY CONI RATHBONE  
SECOND BY PAT IHNAT**

**MOTION CARRIED BY UNANIMOUS VOTE**

- D. **Approval of 02.06.17, regular meeting minutes.** 02.06.17 regular meeting minutes were approved as submitted.

**MOTION TO APPROVE 02.06.17 REGULAR MEETING MINUTES BY JOANN HANSEN  
SECOND BY DAVE HAMILTON**

**MOTION CARRIED BY UNANIMOUS VOTE**

- E. **Date of next meeting: 6.5.17 at the Salishan Resort, 7760 US-101, Gleneden Beach, OR 97388 to begin at 10am.**

**II. PUBLIC COMMENT.** None

**III. REQUESTS FOR WAIVER-Chair Edwards.** None.

- A. Shu Merritt requests experience waiver for principal broker license.** Ms. Merritt appeared before the board and explained that she obtained an international business degree and began working in residential real estate in March of 2015. Alex MacLean asked Ms. Merritt if she intended to stay with Keller Williams and if she was aware that she could have an assistant. Ms. Merritt responded that she did intend to stay with Keller Williams and she needed an assistant to handle unlicensed paperwork. Dave Koch asked Ms. Merritt if she was aware of the tutorial regarding CTA management that is available on the Agency website. Ms. Merritt responded the firm she is currently with, Keller Williams, individual CTA did not exist. Lawnae Hunter clarified that closing transactions and managing brokers are two different things. She also pointed out to Ms. Merritt that she should have the ability to build a team without the principal broker designation. Ms. Merritt explained that although she can build a team she is not able to hire a broker to assist her in showing homes. Coni Rathbone explained to Ms. Merritt that the board was looking for something compelling in order to approve her request for waiver and it appeared the issues she was experiencing could be addressed contractually.

**MOTION TO DENY REQUEST FOR WAIVER OF EXPERIENCE SUBMITTED BY SHU MERRITT BY DAVE KOCH  
SECOND BY LAWNAE HUNTER  
MOTION CARRIED BY UNANIMOUS VOTE**

**IV. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER-Chair Edwards.** CEP Log

- A. Envoy, Andy Varcak to appear by phone.** Mr. Varcak appeared by phone and explained he has taught first time home buyers courses and facilitated other trainings. He also said he teaches courses covering the topic of Real Estate Finance, which is an acceptable course topic. Mr. Varcak indicated that his goal was to provide a more structured training program through Envoy. Coni Rathbone asked Mr. Varcak if he has kept track of continuing education credits and he responded that although he had not kept track of credits in the past, he did review all the record keeping requirements and was prepared to follow them. Dave Koch of he intended to use instructors to provide variety of topics and Mr. Varcak responded that he did intend to utilize other instructors. Commissioner Bentley asked Mr. Varcak if he had considered being an instructor rather than a provider and Mr. Varcak responded that his company wanted to provide their own coursework.

**MOTION TO APPROVE PETITION TO QUALIFY AS CONTINUING EDUCATION PROVIDER BY ENVOY APPROVED BY CONI RATHBONE  
SECOND BY DAVE KOCH  
MOTION CARRIED BY UNANIMOUS VOTE**

- B. Oregon Rental Housing Association Education Inc., Jann Pate to appear in person.** Ms. Pate appeared and explained ORHA Education Inc. is seeking a grant to provide supplemental education to landlords, tenants, and public education. Chair Edwards asked Ms. Pate which location records would be kept and she responded that she believed the Salem office located on Commercial St. would house the records. Commissioner Bentley asked Ms. Pate to clarify the topics that would be offered and she explained she intended to offer courses covering the following topics: Property management, advertising, any type of fair housing issue, real contracts, business ethics, and dispute resolution, which are all acceptable course topics.

**MOTION TO APPROVE THE PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER SUBMITTED BY OREGON HOUSING ASSOCIATION BY JOANN HANSEN  
SECOND BY CONI RATHBONE  
MOTION CARRIED BY UNANIMOUS VOTE**

V. **NEW BUSINESS-Chair Edwards. None.** The following agenda items were submitted for 6.5.17 Agenda, under New Business section:

- Chair Edwards submitted REQUEST FOR WAIVER DECISION PROCESS
- Lawnae Hunter submitted QUALIFICATIONS AND STRUCTURE OF PROPERTY MANAGEMENT LICENSES

**MOTION TO RECOMMEND AGENCY SUBMIT EXHIBIT A (WRITTEN TESTIMONY) TO WAYS AND MEANS JOINT COMMITTEE HEARING WITH MODIFICATIONS (HB5037 RATHER THAN SB 68, REP. GROMBERG INSTEAD OF SEN. RICHARD DEVLIN CO-CHAIR) BY DAVE KOCH  
SECOND BY MARCIA EDWARDS**

**MOTION CARRIED BY UNANIMOUS VOTE**

VI. **COMMUNICATIONS – Administrative Actions Summary-Chair Edwards**

VII. **REPORTS-Chair Edwards**

A. **Commissioner Gene Bentley**

-Client Trust Accounts (CTAs)-Commissioner Bentley asked board members for feedback regarding the imposition of sanctions when entities do not report the opening or closure of CTAs and also explained that the Agency currently sends out an education letter in these situations. The general consensus of the board was that education should be the priority, then reprimand, suspension, fining and revocation should also be sanctions that could be imposed.

- Legislation Update

- HB5037 is currently in Ways and Means Subcommittee of Transportation and Economic Development and hearing was held on 2.9.17
- SB67 is the modifications to ORS Chapter 696 and is was referred to Business and Labor and does not have any scheduled hearings at this time
- SB68 is the fee increase bill and it was assigned to the Subcommittee of Transportation and Economic Development on 2.29.17 and there are not hearing scheduled at this time.
- SB933 deals with creating a reserve fund that is paid into by licensees to reimburse landlords who have had funds embezzled from them, was submitted to Subcommittee of Transportation and Economic Development to the Senate on 3.7.17 and scheduled hearings at this time
- HB3099 would require that all principal brokers to take an advanced practices course, has been referred to the Business and Labor

-Summary of license counts/statistics

B. **Agency division reports-Deputy Commissioner Dean Owens**

1. **Regulation Division-Selina Barnes.** Ms. Barnes summarized the statistics provided in her division handout and announced that Lisa Montellano joined the Agency as a new Financial Investigator, Lindsey Nunes has been working out of class as a Financial Investigator, and Sue Davenport is also working out of class as a Compliance Specialist. She also stated that she was invited by National Legal Counsel for Keller Williams, along with Deanna Hewitt, to speak to some of the main principal brokers or company owners about advertising rules on 3.17.17.
2. **Land Development Division-Michael Hanifin.** Mr. Hanifin summarized the statistics provided in his division handout and explained the division is focused legislation. He also explained the bill tracking process.
3. **Education, Business and Technical Services Division-Anna Higley and Maddy Alvarado.** Ms. Alvarado explained that the division had taken on the Education division and her staff were identifying processes with the focus being on timing mechanisms being in place to monitor class time of students. She also announced that Nenah Darville joined the Agency as new receptionist and summarized the statistics provided in the division handout. Deputy Commissioner Owens provided a budget update.

Mesheal Heyman, REA Communications Coordinator thanked the board members for their feedback regarding the email that Commissioner Bentley sent out an email requesting feedback on the tutorial videos that are available on the Agency website. She also explained that the Agency is currently conducting a review of all the forms the Agency has on file for consistency and accessibility.

John Wallace, OAR, offered a personal invite to all to attend Realtor Day at the Capital on Wednesday, April 12, 2017.

**VIII. ANNOUNCEMENTS-Chair Edwards.** Next board meeting: **6.5.17 at the Salishan Resort, 7760 US-101, Gleneden Beach, OR 97388 to begin at 10am.**

**IX. ADJOURNMENT**

Respectfully submitted:

Respectfully submitted:

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GENE BENTLEY, COMMISSIONER

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MARCIA EDWARDS, CHAIR

**AGENDA ITEM NO.  
IV.**

**OREGON REAL ESTATE BOARD  
Experience Requirement Waiver Request Log  
2016-2017**

<b>2016</b>				
2.1.16	Tim Rist	PB	Denied	<p><b>FACTS:</b> Mr. Rist appeared and Chair Hermanski asked him to provide any additional information he felt the board should consider regarding his waiver request. Mr. Rist acknowledged that although he may not have a lengthy amount of experience, he did have the volume of transaction experience. Dave Koch asked Mr. Rist to explain the process he has in place for client trust accounts. Mr. Rist responded that he uses a spreadsheet of incoming funds and outgoing funds. Chair Hermanski responded that the three year experience requirement is in place to establish sufficient collective experience and Mr. Rist should gain more transaction experience during the remainder of his three year requirement. Marcia Edwards explained her concern was with the lack of management experience as well as dispute resolution. Pat Ihnat explained she also had concerns with Mr. Rist still needing supervision. Joann Hansen stated that the three year experience requirement is imperative for principal brokers. Lawnae Hunter responded that she was not compelled to waive the three year requirement based on the information provided by Mr. Rist.</p> <p><b>DISCUSSION:</b> Joann Hansen stated that in her opinion Keller Williams should be granting the approval and not the board. Mr. Koch suggested that Mr. Rist take advantage of the three year requirement and gain more experience. Marcia Edwards clarified that our mission is to protect consumers.</p> <p><b>MOTION TO DENY THE REQUEST FOR WAIVER SUBMITTED BY TIM RIST BY DAVE KOCH SECOND BY LAWNAE HUNTER MOTION CARRIED BY UNANIMOUS VOTE</b></p>
4.4.16	Dahe Good	PB	Approved	<p><b>FACTS:</b> Ms. Good explained that she had held a number of positions in the real estate industry as well as owning her own real estate development firm for 12 years. She also stated that her goal is to own her own small firm of realtors. Alex MacLean asked Ms. Good how many agents she anticipated to manage and she responded that she would like to have four agents in her firm. Lawnae Hunter asked Ms. Good to provide more detail about her management experience. Ms. Good explained that she had specific training for supervising/managing and public agency rules are very explicit. Coni Rathbone asked Ms. Good why she did not want to hang her license with a principal broker. Ms. Good responded that she wanted to create an atmosphere that focuses on serving clients.</p> <p><b>DISCUSSION:</b> None.</p> <p><b>MOTION TO APPROVE DAHE GOOD'S REQUEST FOR WAIVER OF EXPERIENCE FOR PRINCIPAL BROKER BY DAVE KOCH SECOND BY JOANN HANSEN MOTION CARRIED BY UNANIMOUS VOTE</b></p>
4.4.16	Lisa Neef	PB	Denied	<p><b>FACTS:</b> Ms. Neef explained that she owned a transaction coordination business since 2010. Coni Rathbone asked Ms. Neef to explain in more detail what her business entails. Ms. Neef explained that she is hired by brokers to assist them with their paperwork. Pat Ihnat asked Ms. Neef if she interacted with clients and she responded that she has minimal interaction with clients. Dave Koch asked Ms. Neef to clarify her role in the transaction process regarding confidentiality. Ms. Neef clarified that her role is an administrative one.</p> <p><b>DISCUSSION:</b> Ms. Ihnat asked Dave Koch what he felt about the necessity for license. Mr. Koch responded that in his opinion no license due to conflict. Ms. Ihnat responded situations that included contact with clients may very well cause conflict. Ms. Rathbone explained that a principal broker license is a good idea once Ms. Neef is more seasoned.</p> <p><b>MOTION TO DENY LISA NEEF'S REQUEST FOR WAIVER OF EXPERIENCE FOR PRINCIPAL BROKER LICENSE BY MARCIA EDWARDS SECOND BY DAVE KOCH MOTION CARRIED BY UNANIMOUS VOTE</b></p>
4.4.16	Tim Rist	PB	Approved	<p><b>FACTS:</b> Mr. Rist introduced Lionel Wilson, CEO for Keller Williams and asked him to address the board on his behalf. Mr. Wilson explained that he has known Mr. Rist for about 10 years and he has strong leadership skills. Mr.</p>

				<p>Wilson also summarized Mr. Rist's experience and work history. Coni Rathbone asked Mr. Rist if he intended to stay with Keller Williams. Mr. Rist responded that he did intend to stay with Keller Williams. Chair Hermanski and Ms. Rathbone both asked Mr. Rist to explain what had occurred since his first appearance to make the board change their opinion. Mr. Rist responded that since his first appearance before the board he has obtained a better understanding of ORS Chapter 696, the CTA process, rules. He also explained that he has been on both sides of disputes (buyer/seller).</p> <p><b>DISCUSSION:</b> None</p> <p><b>MOTION TO APPROVE TIM RIST'S REQUEST FOR WAIVER OF EXPERIENCE FOR PRINCIPAL BROKER BY CONI RATHBONE</b></p> <p><b>SECOND BY ALEX MACLEAN</b></p> <p><b>MOTION CARRIED BY UNANIMOUS VOTE</b></p>
6.6.16	William Patten	PB	Approved	<p><b>FACTS:</b> Mr. Patten explained that he purchased his firm as a broker two years ago and hired a principal broker to supervise who has since left the firm and he is having difficulty finding another principal broker for hire. He also explained that he only has 4 months remaining to fulfill the 3 year experience requirement and has 25 years of experience in managing leases.</p> <p><b>DISCUSSION:</b> None.</p> <p><b>MOTION TO APPROVE WILLIAM PATTEN'S REQUEST FOR EXPERIENCE WAIVER FOR PRINCIPAL BROKER'S LICENSE BY MARCIA EDWARDS</b></p> <p><b>SECOND BY PAT IHNAT</b></p> <p><b>MOTION CARRIED BY UNANIMOUS VOTE</b></p>
12.5.16	Joshua Fuhrer	PB	Denied	<p><b>FACTS:</b> Mr. Fuhrer appeared before the board and explained that he has been in the real estate industry on the commercial side for 13 years as developer and wanted to provide brokerage services in addition to what he currently provides to his clients. He also explained that he currently has 3 partners, he being the primary developer, and he would not be supervising anyone or managing any client trust accounts. Mr. Fuhrer stated although he currently was not a licensed broker, he has passed the exam.</p> <p><b>DISCUSSION:</b> Alex MacLean asked Vice-Chair Rathbone if she suggested that Mr. Fuhrer hang his license with a principal broker and then reapply for waiver and she responded that she did feel that would be appropriate.</p>
04.03.17	Shu Merritt	PB		<p><b>FACTS:</b></p> <p><b>DISCUSSION:</b></p>

Real Estate Agency  
 530 Center St. NE Ste. 100  
 Salem OR 97301  
 Phone: (503) 378-4170



**PETITION TO QUALIFY AS A  
 CONTINUING EDUCATION PROVIDER**

Rev. 1/2017

**INSTRUCTIONS**

To petition the Real Estate Board for approval of qualifications to become an applicant for certification as a continuing education provider, the petitioner must complete this form and submit it by e-mail to [madeline.c.alvarado@state.or.us](mailto:madeline.c.alvarado@state.or.us) a least 21 days before the next scheduled Board meeting at which the applicant wishes the Board to act.

**IMPORTANT:**

- ▶ If the petitioner is an entity, the information provided must pertain to that entity. If the petitioner is an individual, the information provided must pertain to that individual.
- ▶ All information and documents submitted as part of this petition become part of the Board Packet, and therefore, public record.
- ▶ Petitioners will need to appear before the Board. This may be done in person or by phone. Once the Agency receives this completed petition, a letter will be sent to the petitioner with the date of the Board meeting the petitioner will need to attend.

If the Board approves this petition, the Agency will mail a letter to the petitioner, at the mailing address provided, confirming the Board's approval. The petitioner may then apply for certification as a continuing education provider under OAR 863-020-0030.

**PETITIONER**

Name Mason McDuffie Mortgage Corporation Phone Number (503) 883-8098

Physical Address 10725 SW Barbur Blvd #202 Address Cont. \_\_\_\_\_

City Portland State OR Zip Code 97219 County Multnomah

E-mail info@masnmacnw.com

Mailing Address (if different) \_\_\_\_\_ Address Cont. \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_ County \_\_\_\_\_

**AUTHORIZED CONTACT PERSON**

Prefix \_\_\_\_\_ First Name Jesse Last Name Rivera

Phone Number 503-683-2508 E-mail jesse@masonmacnw.com

Indicate who will appear before the board on behalf of the Petitioner: Jesse Rivera

**AGENCY USE ONLY**

Approved by Board YES NO

Review Date \_\_\_\_\_



**PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER, Continued**

**QUALIFICATION INFORMATION**

Provide below sufficient information about the petitioner to allow the Board to determine whether the petitioner qualifies for certification. **If the petitioner is an entity, the information provided must pertain to that entity. If the petitioner is an individual, the information provided must pertain to that individual.**

Information **MUST** include one or both of the following:

- ▶ Petitioner's demonstrated expertise and experience in providing educational courses to real estate licensees.
- ▶ Petitioner's demonstrated experience and expertise in two or more course topics eligible for continuing education credit under OAR 863-020-0035.

You may attach up to **three (3)** additional pages if necessary.

The Portland Branch is an arm of the Mason McDuffie Mortgage Corporation whose headquarters is located in San Ramon California in the Bay Area. With a rich history in real estate, Mason-McDuffie has been a leader in mortgage lending since 1887. In 1982 the Company held the 6th largest portfolio in the U.S. It's current chairman, Herb Tasker, has served as president of the MBA. Mason Mac (as we like to call it) not only prides itself in creating an exceptional Customer experience, but is one of the leaders in technology and marketing.

The main instructor, Jesse Rivera, has the following expertise and experience:

Bachelor's in Science Degree from Portland State University, 2000. Approved Instructor with ARELLO. Licenced Loan Originator, 2016. Approved CE instructor with Lawyers Title. Ex High School Math Teacher. Eight years as real estate broker, four years a principal managing broker. Responsible for hiring new brokers, training them, and mentoring them. Also responsible in making sure close to 30 brokers were kept up to date on form and legal changes, ongoing training, and paperwork for all deals. As a result of this position, I am very confident that I can teach CE very effectively in the following areas: Principal Real Estate Broker Supervision Responsibilites, Agency Relationships, Misrepresentation, Advertising Regulations, Consumer Protection, Real Estate Contracts, Real Estate Property Evaluation and Valuation, Managing a Brokerage, Business Ethics, Risk Management, Real Estate Finance ( I am a licensed Loan Originator), Real Estate Escrows,and Negotiation.

**AUTHORIZATION AND ATTESTATION**

- ▶ I hereby certify that I am authorized to submit this form on behalf of the petitioner and that the information is true and accurate, to the best of my knowledge.
- ▶ I acknowledge that petitioner, or authorized individual on petitioner's behalf, has read, understands and is ready to comply with the statutory and administrative rule provisions applicable to certified continuing education providers.
- ▶ I attest that petitioner knows and understands the responsibilities of a certified continuing education provider under OAR 863-020-0050.
- ▶ I attest that petitioner knows and understands the requirements of an instructor under ORS 696.186 and the information required on a continuing education instructor qualification form under OAR 863-020-0060.

Jesse Rivera

Date 5/10/2017

Printed Name of Authorized Individual

  
Signature of Authorized Individual

ADMINISTRATIVE ACTIONS  
Reported  
11/15/16 through 3/13/17

**REVOCATIONS**

Hillendahl, Lane (Cottage Grove) Principal Broker 200506313, Stipulated Order dated December 2, 2016, issuing a revocation.

Dugas, Stephanie (Cottage Grove) Broker 200601098, Default Order dated December 20, 2016, issuing a revocation.

Buckley, Charles (Toledo) Principal Broker 811100166, Default Order dated January 3, 2017, issuing a revocation.

Gregg, Richard (Newport Beach) Principal Broker 201208284, Default Order dated January 18, 2017, issuing a revocation with a \$1,500 civil penalty for unlicensed activity.

McIver, Benjamin (Eugene) Property Manager 990800144, Default Order dated January 20, 2017, issuing a revocation with a \$10,000 civil penalty for failure to produce property management records.

**SUSPENSIONS**

**REPRIMANDS**

Forhan, Anthony (Portland) Property Manager 200805072, Stipulated Order dated November 29, 2016, issuing a reprimand with a \$1,600 civil penalty for late renewal.

Boehnen, Jerry (Klamath Falls) Broker 970700070, Stipulated Order dated January 9, 2017, using a reprimand.

**CIVIL PENALTIES**

Expired — Late Renewal civil penalties are computed using each 30-day period as a single offense. The civil penalty for the first 30-day period can range from \$100-\$500, with each subsequent 30-day period ranging from \$500-\$1,000. ORS 696.990

1 REAL ESTATE AGENCY  
2 BEFORE THE REAL ESTATE COMMISSIONER  
3

4 In the Matter of the Real Estate License of

5  
6 LANE ELIZABETH HILLENDAHL

STIPULATED FINAL ORDER

7  
8  
9  
10 The Real Estate Agency (OREA) and Lane Elizabeth Hillendahl (Hillendahl) do hereby  
11 agree and stipulate to the following:

12 FINDINGS OF FACT  
13 &  
14 CONCLUSIONS OF LAW

15 1.

16 1.1 Hillendahl was licensed as a principal broker with Rain Country Realty Inc. On  
17 June 8, 2016, Hillendahl voluntarily disassociated her license with Rain Country Realty Inc.,  
18 and as a result, Hillendahl's license is inactive.

19 1.2 In a letter dated June 9, 2016, Hillendahl self-reported to OREA that she  
20 doctored well test results in a transaction. OREA also received additional information from  
21 several sources regarding details of what occurred in the transaction.

22 1.3 In her letter, Hillendahl provided the details of the transaction, "When the first  
23 acceptable offer came in the Buyers were USDA approved. I told my Seller that to the best of  
24 my knowledge USDA will not accept a home that has any arsenic in a well."

25 1.4 According to Hillendahl's letter, the seller failed to believe her and wanted to  
26 proceed. Hillendahl stated the arsenic was disclosed to the buyers and the buyer's agent. She  
27 stated that several water tests were done, and during this time, the buyers were working on the  
28 house, billing improvements they made to escrow. Hillendahl wrote, "Also I was accused of  
29 not telling the Seller the true reason for the water samples being done over and over again and  
30 all along. The buyer told her it was for more bacteria tests and so again I became, in her mind

1 the bad guy as I told her the lender and other agent were trying to find a way around the  
2 arsenic. That was the truth."

3 1.5 In her letter Hillendahl wrote the following, "Lender says it will be at least another  
4 month after they get a clean water sample and the Buyer's agent says the water sample will  
5 come back "clean after treatment" which the USDA will not accept. At this point under  
6 pressure from all sides, I flipped. I doctored the well test and gave them all a copy. I believe I  
7 said at the time "See if this gets you out of you [sic] predicament."

8 1.6 OREA received two copies of the water test performed by Analytical Laboratory  
9 Group. The first copy contained the notation "ORIGINAL" in handwritten text in the right hand  
10 corner. On the "Original" document, the Arsenic Result was .0155 mg/L and was marked by  
11 an asterisk. At the bottom of the page, the asterisk corresponded to "Value exceeds Maximum  
12 Contaminant Level (MCL)."

13 1.7 The second copy contained the notation "Doctored" in handwritten text in the  
14 right hand corner. On the "Doctored" document, the Arsenic Result was .0015 mg/L and the  
15 asterisk was absent.

16 **Violation:** By changing the arsenic levels on the water report, Hillendahl committed an  
17 act of fraud or engaged in dishonest conduct in violation of ORS 696.301(14) (2015 Edition),  
18 which states that a licensee's real estate license may be disciplined if the licensee committed  
19 an act of fraud or engaged in dishonest conduct substantially related to the fitness of the  
20 applicant or license to conduct professional real estate activity, without regard to whether the  
21 act or conduct occurred in the course of professional real estate activity.

22 2.

23 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.  
24 Based on these violations a revocation is appropriate under ORS 696.396(2)(c)(C) (2015  
25 Edition), According to ORS 696.396, OREA may revoke a real estate license if the material  
26 facts establish a violation of a ground for discipline under ORS 696.301 that exhibits  
27 dishonesty or fraudulent conduct.

28 2.2 OREA reserves the right to investigate and pursue additional complaints that  
29 may be received in the future regarding this licensee.

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STIPULATION & WAIVER

I have read and reviewed the above findings of fact and conclusions of law which have been submitted to me by OREA and further, the order which follows hereafter. I understand that the findings of fact, conclusions of law and this stipulation and waiver embody the full and complete agreement and stipulation between OREA 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. Hearings are 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. 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.

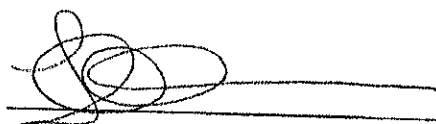
I hereby agree and stipulate to the above findings of fact and conclusions of law and understand that the order which follows hereafter may be completed and signed by the Real Estate Commissioner or may be rejected by the Real Estate Commissioner. I understand that, in accordance with the provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real Estate News Journal.

ORDER

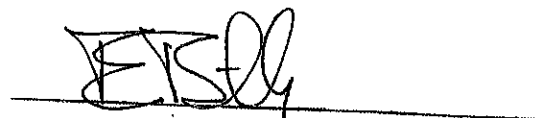
IT IS HEREBY ORDERED Hillendahl's principal broker license is revoked.

IT IS SO STIPULATED:

IT IS SO ORDERED:



LANE ELIZABETH HILLENDAHL



GENE BENTLEY  
Real Estate Commissioner

Date 12-1-16

Date 12.2.16

Date of service: 12/2/2016

1 REAL ESTATE AGENCY  
2 BEFORE THE REAL ESTATE COMMISSIONER  
3

4 In the Matter of the Real Estate License of )  
5 )  
6 STEPHANIE L. DUGAS ) ORDER ON DEFAULT  
7 )  
8 )

9 1.

10 1.1 On November 9, 2016, the Real Estate Commissioner issued, by certified mail, a  
11 notice of intent to revoke the real estate broker's license of Stephanie L. Dugas (Dugas). The  
12 Real Estate Agency (OREA) sent the notice of intent to Dugas' last known address of record  
13 with the OREA. The notice of intent was also mailed to Dugas by regular first class mail in a  
14 handwritten envelope.

15 1.2 The certified mailing and the first class mailing of the notice of intent were sent to  
16 Dugas at 1150 Greer Ave, Cottage Grove, OR 97424.

17 1.3 Over twenty (20) days have elapsed since the mailing of the notice issued in this  
18 matter and no written request for hearing has been received.

19 1.4 Copies of the entire investigation file are designated as the record for purposes  
20 of default, including any submission from respondent and all information in the administrative  
21 file relating to the mailing of notices and any responses received.

22 2.

23 Based upon the foregoing and upon a review of the above described investigation  
24 reports, documents and files, the Real Estate Commissioner finds:

25 2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is  
26 properly served when deposited in the United States mail, registered or certified mail,  
27 addressed to the real estate licensee or to any other person having an interest in a proceeding  
28 before the Commissioner at the licensee's or other person's last known address of record with  
29 OREA.

30 2.2 Dugas' last known address of record with OREA was 1150 Greer Ave, Cottage  
Grove, OR 97424.



1           3.4    Freddie Mac provided two exhibits with their complaint. The first exhibit  
2 contained the following:

- 3   • Invoices from Kent Frey Construction (KFC) for alleged work at:  
4       1.     262 Pine St, Sutherlin OR 97479 (Sutherlin property)  
5       2.     38483 Hwy 228, Sweet Home OR 87386 (Sweet Home property)  
6       3.     404 W Bishop Way, Brownsville, OR 97327 (Brownsville property)  
7   • Yard maintenance and property cleaning expenses (without invoices) at:  
8       1. 150 E. 48<sup>th</sup> Ave, Eugene, Or (Eugene property) and  
9       2. 134-136 W 2<sup>nd</sup> St, Lowell OR, (Lowell Property).  
10 • An email to Wessler from the owner of KFC, Frey dated February 13, 2013, regarding the  
11 validity of the above expenses billed to Freddie Mac.

12           3.5    The second exhibit provided was an email exchange between Megan Reese  
13 (Reese), of Freddie Mac, and Dugas, from November 2012.

14           3.6    On November 1, 2012, Dugas emailed Reese. Dugas stated she heard from  
15 Beatty that Reese was sending an email regarding issues on several properties. Reese  
16 replied to Dugas a couple days later and stated she provided all the information to Beatty for a  
17 response. Reese stated she ran a few accounting reports and found Sundance had not  
18 submitted any utility bills on Dugas' properties and "only yard maintenance expenses from May  
19 to July of this year. All of these issues are violations of our Master Listing & Services  
20 Agreement signed by Farris every year."

21           3.7    Reese indicated she was taking Sundance to Freddie Mac's Disciplinary  
22 Committee on November 8, 2012 and invited Dugas to provide any information to her no later  
23 than Tuesday, November 6, 2012. On November 6, 2012, Dugas stated to Reese she went to  
24 the properties to make sure they were up to Freddie Mac's standards. Dugas claimed to put  
25 utilities in her name because Beatty would not. She stated, "I haven't submitted for  
26 reimbursement because they say it has to be in the company name. I've been turning them on  
27 for inspections, appraisals, rehab, etc. I carry all of the expense of the capital repairs, so it is  
28 no problem to carry utilities regularly if I am able to submit for reimbursements."

29 ///

30 ///



1 3.8 Freddie Mac's investigation report included the following details:

- 2 • Freddie Mac identified six houses being maintained by Dugas that failed
- 3 inspections by a third-party, hired by Freddie Mac.
- 4 • Frey confirmed by email that Dugas falsely billed Freddie Mac for work on at
- 5 least five properties.
- 6 • A Freddie Mac disciplinary committee held a hearing on November 2012. Dugas
- 7 offered no explanation except to say she had corrected the problem.
- 8 • On November 18, 2012, Sundance was terminated as a Freddie Mac vendor

9 3.9 Freddie Mac found Dugas fraudulently billed them expenses of \$6,455 from April  
10 4, 2012 to November 6, 2012 related to:

- 11 • The Sutherlin Property: Two invoices from KFC totaling \$1,035.00 for work
- 12 allegedly done. Frey indicated these invoices were fraudulent.
- 13 • Sweet Home Property: Two invoices from KFC totaling \$600.00 for work
- 14 allegedly done. Frey indicated these invoices were fraudulent.
- 15 • Brownsville Property: Two invoices from KFC totaling \$4,170.00 for work
- 16 allegedly done. Frey indicated these invoices were fraudulent.
- 17 • Lowell and Eugene Properties: Four separate occurrences of yard maintenance
- 18 of \$50.00 per occurrence were billed from KFC. Frey wrote, "I did a one time
- 19 removal of wood debris in the backyard but did not do regular yard maintenance."
- 20 Additionally, four separate occurrences were billed for yard maintenance and
- 21 interior cleaning expenses, of \$75.00 per occurrence were allegedly billed from
- 22 KFC. Frey indicated these billings were fraudulent.

23 3.10 Wessler interviewed Frey during her investigation. Frey said he did mostly rehab  
24 work for Dugas. Wessler asked whether Frey did yard maintenance for Dugas, and Frey said  
25 he did yard work on one or two properties but never regular maintenance.

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ORDER

IT IS HEREBY ORDERED that Dugas' broker license is revoked.

Dated this 20<sup>th</sup> day of DECEMBER, 2016.

OREGON REAL ESTATE AGENCY



\_\_\_\_\_

GENE BENTLEY  
Real Estate Commissioner

Date of Service: 12-20-2010

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this order. Judicial review is pursuant to the provisions of ORS 183.482.

1 REAL ESTATE AGENCY  
2 BEFORE THE REAL ESTATE COMMISSIONER  
3

4 In the Matter of the Real Estate License of )  
5 )  
6 CHARLES S. BUCKLEY ) ORDER ON DEFAULT  
7 )  
8 )

9 1.

10 1.1 On November 30, 2016, the Real Estate Commissioner issued, by certified mail,  
11 a notice of intent to revoke the real estate principal broker license of Charles S. Buckley  
12 (Buckley). The Oregon Real Estate Agency (OREA) sent the notice of intent to Buckley's last  
13 known address of record with the OREA. The notice of intent was also mailed to Buckley by  
14 regular first class mail in a handwritten envelope.

15 1.2 The certified mailing and the first class mailing of the notice of intent were sent to  
16 Buckley at 610 NE 1<sup>st</sup> St, Toledo, OR 97391.

17 1.3 Over twenty (20) days have elapsed since the mailing of the notice issued in this  
18 matter and no written request for hearing has been received.

19 1.4 Copies of the entire investigation file are designated as the record for purposes  
20 of default, including any submission from respondent and all information in the administrative  
21 file relating to the mailing of notices and any responses received.

22 2.

23 Based upon the foregoing and upon a review of the above described investigation  
24 reports, documents and files, the Real Estate Commissioner finds:

25 2.2 Buckley's last known address of record with OREA was 610 NE 1<sup>st</sup> St, Toledo,  
26 OR, 97391.

27 2.3 A certified mailing of the notice of intent was mailed to Buckley at his last known  
28 address of record on November 30, 2016. Buckley signed for the certified mailing of the notice  
29 of intent on December 2, 2016.

30 ///

2.4 The mailing in the handwritten envelope has not been returned to OREA. In  
accordance with ORS 40.135(1)(q), there is a presumption that the mailing properly addressed

1 and placed with the U.S. Postal Service was delivered. That presumption has not been  
2 overcome by any evidence.

3 2.5 Over twenty (20) days have elapsed since the mailing of the notice and no  
4 written request for a hearing has been received.

5 FINDINGS OF FACT

6 &

7 CONCLUSIONS OF LAW

8 3.

9 3.1 Buckley was licensed as a principal broker with Oregon Coast Properties until  
10 February 11, 2016, at which time his license was disassociated with Oregon Coast Properties,  
11 causing Buckley's license to become inactive.

12 3.2 On February 22, 2016, Buckley self-reported to OREA that he pled guilty to five  
13 counts of Encouraging Child Sexual Abuse in the First Degree on February 10, 2016.

14 3.3 A cyber tip from the National Center for Missing and Exploited Children (NCMEC)  
15 involving sexually explicit images of prepubescent children was sent to a special agent at the  
16 Department of Justice and was then forwarded on to local law enforcement in the area to  
17 investigate. The report from NCMEC stated that on April 28, 2015, 37 images of  
18 prepubescent children were downloaded to Buckley's IP address. Detectives determined that  
19 10 of the 37 images were of prepubescent children displaying their genitals.

20 3.4 On December 16, 2015, Buckley was arrested by the Toledo Police Department  
21 (Case # TOP15000239).

22 3.5 On February 10, 2016, Buckley pled guilty to 5 counts of Encouraging Child  
23 Sexual Abuse in the First Degree (Lincoln County Circuit Court, Case # 15CR57643). Buckley  
24 was sentenced to 56 days of jail time, and given three years of supervised probation.

25 3.6 Buckley's supervised probation included, but not limited to, the following  
26 requirements:

- 27
- 28 • Attend sex offender counseling
  - 29 • "Regardless of whether or not sex offender treatment is recommended by the  
30 evaluator, the defendant shall not be in the immediate presence of any female or  
male under the age of 18 years, unless that male or female's parent or legal  
guardian is in the same room, car or location with the defendant and that male or  
female. This condition does not apply to a public setting such as a grocery store,

1 variety store or bowling alley where adults, not including friends or associates of  
2 the defendant are actually present in the immediate vicinity of the defendant and  
3 any male or female under the age of 18 years. This condition does apply to the  
4 above locations if such other adults are not actually present in the immediate  
5 vicinity of the defendant and the minor male or female and to any private  
6 residence and vehicle and also to any public or private setting (such as yard,  
7 field, public park or forest) where an opportunity for privacy with such male or  
8 female might arise.”

- 9 • “The Defendant shall not own, control, use or possess any computer or other  
10 electronic device capable of accessing the Internet, except for the multiple-listing  
11 of real property for sale in Lincoln County, Oregon. If it is not possible to restrict  
12 the Defendant’s internet access to a multiple-listing real estate site, the  
13 Defendant may not use a computer or other electronic device capable of  
14 connecting to the Internet unless there is a non-relative adult who works in real  
15 estate and who is simultaneously viewing the same material that is being viewed  
16 by the Defendant.”

17 **Violation:** By being convicted of five counts of Encouraging Child Sexual Abuse in the  
18 First Degree (Class B Felony) Buckley violated ORS 696.301(11) (2015 Edition), which states  
19 a licensee’s real estate license may be disciplined if they have been convicted of a felony or  
20 misdemeanor substantially related to the licensee’s trustworthiness or competence to engage  
21 in professional real estate activity.

22 **Violation:** By being engaging in conduct which resulted in his conviction of five counts  
23 of Encouraging Child Sexual Abuse in the First Degree (Class B Felony) Buckley violated ORS  
24 696.301(15) (2015 Edition) which states a licensee’s real estate license may be disciplined if  
25 they have engaged in any conduct that is below the standard of care for the practice of  
26 professional real estate activity in Oregon as established by the community of individuals  
27 engaged in the practice of professional real estate activity in Oregon.

28 3.7 On May 19, 2016, through Lincoln County Circuit Court (Case # 16CR30065) a  
29 Secret Indictment was entered charging Buckley with 16 counts of Encouraging Child Sexual  
30 Abuse in the First Degree.



1  
2 REAL ESTATE AGENCY  
3 BEFORE THE REAL ESTATE COMMISSIONER

4 In the Matter of the Real Estate License of )  
5 )  
6 RICHARD ERNEST GREGG ) ORDER ON DEFAULT  
7 )  
8 )

9 1.

10 1.1 On November 14, 2016, the Real Estate Commissioner issued, by certified mail,  
11 a notice of intent to levy a civil penalty and revoke the real estate principal broker license of  
12 Richard Ernest Gregg (Gregg). The Oregon Real Estate Agency (OREA) sent the notice of  
13 intent to Gregg's last known address of record with the OREA on November 15, 2016. On  
14 November 15, 2016, the notice of intent was also mailed to Gregg by regular first class mail in  
15 a handwritten envelope.

16 1.2 The certified mailing and first class mailing of the notice of intent were sent to  
17 Gregg at the following addresses: 22061 Teresa, Mission Viejo, CA 92692 (OREA address of  
18 record for Gregg) and 27093 Callado Mission Viejo, CA 92691 (address provided by  
19 complainant for Gregg).

20 1.3 OREA received back both the certified mailing and regular mailing of the notice  
21 of intent mailed to 22061 Teresa, Mission Viejo, CA 92692. The regular mail returned was  
22 marked, "Return to Sender Not Deliverable As Addressed Unable to Forward." The certified  
23 mailing was marked, "Return to Sender Not Deliverable As Addressed Unable to Forward."

24 1.4 OREA received back the certified mailing of the notice of intent mailed to 27093  
25 Via Callado, Mission Viejo, CA 92691, it was marked, "Forward Time Exp Rtn to Send," and  
26 provided a forwarding address for Richard E Gregg of 94 Hartford Dr #53, Newport Beach, CA  
27 92660. The regular mailing of the notice of intent was not returned to OREA.

28 1.5 On November 21, 2016, a copy of the notice of intent was emailed to Gregg  
29 using the email address OREA had on file, [richard@oreoit.com](mailto:richard@oreoit.com).

30 ///



1 1.6 On December 2, 2016, the notice of intent was mailed by both certified mail and  
2 by regular first class mail in a handwritten envelope to 94 Hartford Dr #53, Newport Beach, CA  
3 92660. Neither mailing addressed to this address has been returned to OREA. The domestic  
4 return receipt for the certified mailing was signed for, however was unclear from the signature  
5 who signed for the certified mailing.

6 1.7 Over twenty (20) days have elapsed since the mailing of the notice issued in this  
7 matter and no written request for hearing has been received.

8 1.8 Copies of the entire investigation file are designated as the record for purposes  
9 of default, including any submission from respondent and all information in the administrative  
10 file relating to the mailing of notices and any responses received.

11 2.

12 Based upon the foregoing and upon a review of the above described investigation  
13 reports, documents and files, the Real Estate Commissioner finds:

14 2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is  
15 properly served when deposited in the United States mail, registered or certified mail,  
16 addressed to the real estate licensee or to any other person having an interest in a proceeding  
17 before the Commissioner at the licensee's or other person's last known address of record with  
18 OREA.

19 2.2 Gregg's last known address of record with OREA was 22061 Teresa, Mission  
20 Viejo, CA, 92692.

21 2.3 A certified mailing of the notice of intent was mailed to Gregg at his last known  
22 address of record on November 15, 2016. OREA received back both the certified mailing and  
23 regular mailing of the notice of intent mailed to 22061 Teresa, Mission Viejo, CA 92692. The  
24 regular mail returned was marked, "Return to Sender Not Deliverable As Addressed Unable to  
25 Forward." The certified mailing was marked, "Return to Sender Not Deliverable As Addressed  
26 Unable to Forward."

27 2.4 OREA received back the certified mailing of the notice of intent mailed to 27093  
28 Via Callado, Mission Viejo, CA 92691, it was marked, "Forward Time Exp Rtn to Send," and  
29 provided a forwarding address for Richard E Gregg of 94 Hartford Dr #53, Newport Beach, CA  
30 92660. The regular mailing of the notice of intent was not returned to OREA.

1           2.5    On November 21, 2016, a copy of the notice of intent was emailed to Gregg  
2 using the email address OREA had on file, richard@oreoit.com.

3           2.6    On December 2, 2016, the notice of intent was mailed by both certified mail and  
4 by regular first class mail in a handwritten envelope to 94 Hartford Dr #53, Newport Beach, CA  
5 92660.  Neither mailing addressed to this address has been returned to OREA.  The domestic  
6 return receipt for the certified mailing was signed for, however was unclear from the signature  
7 who signed for the certified mailing.

8           2.7    The mailing in the handwritten envelope addressed to Gregg at the 94 Hartford  
9 Dr #53, Newport Beach, CA 92660 address has not been returned to OREA.  In accordance  
10 with ORS 40.135(1)(q), there is a presumption that the mailing properly addressed and placed  
11 with the U.S. Postal Service was delivered.  That presumption has not been overcome by any  
12 evidence.

13          2.8    Over twenty (20) days have elapsed since the mailing of the notice and no  
14 written request for a hearing has been received.

15          2.9    Pursuant to ORS 696.775, the lapsed status of Gregg's license does not prohibit  
16 the Commissioner from proceeding with further action.

17                                 FINDINGS OF FACT

18   &

19                                 CONCLUSIONS OF LAW

20   3.

21          3.1    Gregg was licensed as a principal broker doing business under the registered  
22 business name of Apple 1 Realty.  Gregg's license was active from April 29, 2014 through  
23 September 30, 2015.  On October 1, 2015, Gregg's license expired.  On October 1, 2016,  
24 Gregg's license lapsed.

25          3.2    On June 7, 2015, OREA received a complaint from Amir "John" Gabriel  
26 (Gabriel).  OREA opened an investigation.

27          3.3    On September 27, 2013, Gregg emailed Gabriel regarding property located at  
28 1194 Uglow Avenue, Dallas, Oregon, (subject property) that he offered to repair and sell for  
29 Gabriel.

30    ///

1           3.4    On October 2, 2013, Gregg and Gabriel discussed the vesting and financing of  
2 the subject property purchase by email. Gregg asked Gabriel to sign the vesting agreement  
3 attached to his email and Gabriel replied, "Please attach a copy of the contract along with this  
4 assignment (no worry about the assignment fee :)." Gregg responded to the email, "I do not  
5 have a copy of the contract, but attached is escrow instructions, which should do what you  
6 need."

7           3.5    On October, 7, 2013, Gabriel emailed the lender and Gregg stating, "The Escrow  
8 is in SRB Investment Properties name and not Princy Investment Group Inc? That is fine if we  
9 are doing a double closing otherwise what is needed is the contract which shows that SRB  
10 Investment Properties, Inc has the right to assign the contract and the assignment agreement  
11 which stipulate the contract purchase price plus the assignment fee and ORIET marketing fee."

12           3.6    During the investigation OREA Investigator/Auditor Jeremy Brooks interviewed  
13 Gabriel regarding the purchase of the subject property. Gabriel said the purchase contract  
14 was informal, and Gregg listed himself as an investor, then charged a marketing fee. Gabriel  
15 provided for the investigation copies of the vesting agreement between Princy Investment  
16 Group, Inc (Gabriel was a real estate investor from the Princy Investment Group) and SRB  
17 Investment Properties dated October 3, 2013, where SRB Investment Properties agreed to  
18 purchase the subject property for \$78,836.00, pay all closing costs and pay a \$2,000  
19 "Marketing Fee" to OREOIT LLC. (Gregg was the President of OREOIT according to the  
20 Oregon Secretary of State Records.)

21           3.7    Regarding the marketing fee, Gabriel emailed Brooks the following, "Richard  
22 received 2,000 from Princy Investment as per the vesting agreement through SRB Investment  
23 Properties Inc."

24           3.8    When Brooks first spoke with Gregg about the purchase of the subject property,  
25 Gregg said he received a small finder's fee. During Brooks' second interview with Gregg on  
26 February 19, 2016, Gregg said, "I was never paid a finder's fee."

27           **Violation:** By receiving a \$2,000 commission in the form of a "marketing fee" for the  
28 subject property, as the sole agent of OREOIT LLC, on October 3, 2013, without having an  
29 active real estate license, Gregg violated ORS 696.020 (2013 Edition), which states, an  
30 individual may not engage in, carry on, advertise or purport to engage in or carry on

1 professional real estate activity, or act in the capacity of a real estate licensee, within this state  
2 unless the individual holds an active license.

3 3.9 On April 12, 2014, Gregg sent Gabriel a listing agreement for the subject  
4 property. The listing agreement was between Princy Investments Group Inc. and California  
5 Home Realty/Richard Gregg, with Gregg listed as, "(Agent)" for California Home  
6 Realty/Richard Gregg. The listing agreement set the price at \$179,900. The listing agreement  
7 stated under Section 4 Compensation to Broker, "Seller agrees to pay Broker," 6% percent of  
8 the listing price. At the time of the listing agreement, Gregg did not have an Oregon real estate  
9 license.

10 **Violation:** By entering into a listing agreement with Princy Investment Group on April 9,  
11 2014, for the subject property, without having an active real estate license, Gregg violated  
12 ORS 696.020 (2013 Edition), which states, an individual may not engage in, carry on,  
13 advertise or purport to engage in or carry on professional real estate activity, or act in the  
14 capacity of a real estate licensee, within this state unless the individual holds an active license.

15 3.10 On July 23, 2014, Gabriel emailed Gregg requesting a price reduction to either  
16 \$174,900 or \$172,900. Gregg replied the following day and suggested lowering the price to  
17 \$173,900. On August 14, 2014, Gabriel emailed Greg to point out the websites did not reflect  
18 the new sales price and was still showing the \$179,000 price. Gabriel said he tried to contact  
19 Gregg for a month and didn't receive a response until Gregg emailed Gabriel on September 9,  
20 2014, with multiple reasons why he hadn't been in contact. Gregg stated he was going to take  
21 the property off the market for seven days to reset the listing so it would show up as new.

22 3.11 On September 17, 2014, Gabriel emailed Gregg that the property was still  
23 showing up on Zillow and Trulia.

24 **Violation:** By failing to lower the subject property listing price on a timely basis after the  
25 seller requested the reduction, Gregg violated ORS 696.301(12) (2013 Edition), which states a  
26 licensee's real estate license may be disciplined if they have demonstrated incompetence or  
27 untrustworthiness in performing any act for which the licensee is required to hold a license.

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1           3.12 On November 16, 2014, Gregg emailed Gabriel an attachment titled, "Purchase  
2 Offer Kastle. pdf." In his complaint Gabriel made several comments about the purchase  
3 contract and the pre-approval letter, including the following:

4           "The contract looked unusual with no closing date or other dates in it. I had called that  
5 [sic] alleged buyer after searching the name on the Internet, the buyer [sic] agent that  
6 was on the contract and the mortgage company that was supposedly issued the letter  
7 for the buyer. Found out that the person listed as buyer- Richard Castle- not in the  
8 market to buy any property and he did not know or met [sic] Richard, that Blum Real  
9 Estate named buyer agency do [sic] not have that buyer or the property in their records  
10 and the mortgage company- LandMark and Associates Inc. – do [sic] not have that  
11 named Loan Originator – Nelson Lomax – and the company is licensed only in Florida  
12 and never done any business in Oregon. Richard fake and forged not only a Sales  
13 Contract but also a Loan Pre-approval Letter. I sent the data to the Lender. And on 11-  
14 21-2014 talked to Richard and he gave me names of the broker and the mortgage  
15 company phone number and both were made up names and wrong phone numbers.  
16 And that led to investigating the data in the contract and the letter."

17           On November 19, 2014, Gregg sent Gabriel an attachment titled "Preapproval.pdf."

18           3.13 A "Prequalification Letter" was also included with Gregg's November 16, 2014  
19 email that indicates on November 7, 2014, borrower Chad Kastle was pre-qualified by Nelson  
20 Lomax, Loan Originator of LandMark Mortgage & Associates, to purchase a home for up to  
21 \$183,400.00 and referenced the subject property in the address line.

22           3.14 Brooks contacted Nelson Lomax and discussed the pre-qualification letter with  
23 Lomax. Lomax told Brooks he had never heard of Chad Kastle, the alleged buyer. Brooks was  
24 able to confirm the letterhead from the pre-qualification letter submitted by Gregg did not come  
25 from LandMark Professional Mortgage. Brooks searched the National Mortgage System for  
26 additional loan originators named Nelson Lomax nationwide. The only result was for Nelson  
27 Lomax, who was registered with Landmark Professional Mortgage in Salem Oregon.

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1           3.15 By doing an online search, Brooks was able to locate LandMark Mortgage &  
2 Associates, Inc., in Lakeland FL that appeared to have a similar logo to the prequalification  
3 letter submitted by Gregg. Brooks contacted LandMark Mortgage & Associates, Inc., to find  
4 out if Nelson Lomax had ever worked there or if Kastle had been a client in the past. Brooks  
5 was told Lomax did not ever work there, and they did not have any record of any file for Chad  
6 Kastle as a borrower.

7           3.16 Brooks met with Gladys Blum (Blum) of Blum Real Estate to verify the details of  
8 the purchase offer Gregg submitted to Gabriel. The purchase contract appeared to have been  
9 written by Patrick Livingston (Livingston) at Blum Real Estate. Blum stated she didn't have a  
10 broker named Livingston and was not familiar with the offer. The transaction coordinator from  
11 Blum Real Estate, verified they were not familiar with Kastle, Livingston or the transaction in  
12 general.

13           3.17 Brooks contacted Chad Kastle (Kastle) in Salem Oregon using a phone number  
14 he found on the internet. Kastle confirmed he had not made any offer on the subject property.  
15 Brooks was unable to locate any other Chad Kastle located in Salem.

16           **Violation:** By making a material misrepresentation to the seller presenting a fictitious  
17 mortgage pre-qualification letter associated with a purchase offer Gregg violated ORS  
18 696.301(1), (12) and (14) (2013 Edition) which states, a licensee's real estate license may be  
19 disciplined for the following reasons if they: (1) created a reasonable probability of damage or  
20 injury to a person by making one or more material misrepresentations or false promises in a  
21 matter related to professional real estate activity, (12) demonstrated incompetence or  
22 untrustworthiness in performing any act for which the licensee is required to hold a license,  
23 and (14) committed an act of fraud or engaged in dishonest conduct substantially related to the  
24 fitness of the applicant or licensee to conduct professional real estate activity, without regard to  
25 whether the act or conduct occurred in the course of professional real estate activity.

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ORDER

IT IS HEREBY ORDERED that Gregg's principal broker license is revoked.

IT IS FURTHER ORDERED that pursuant to ORS 696.990, Gregg pay a civil penalty in the sum of \$1,500, and said penalty to be paid to the General Fund of the State Treasury by paying the same to OREA. ORS 696.990 allows for the imposition of a civil penalty in the range of \$100 to \$500.00 for the first occurrence of unlicensed professional real estate activity, and \$500 to \$1,000.00 for each subsequent occurrence. In this instance there were two occurrences of unlicensed activity.

Dated this 18<sup>th</sup> day of JANUARY, 2017.

OREGON REAL ESTATE AGENCY



\_\_\_\_\_  
GENE BENTLEY  
Real Estate Commissioner

Date of service: 1/18/2017

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this order. Judicial review is pursuant to the provisions of ORS 183.482.



REAL ESTATE AGENCY  
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of  
BENJAMIN F. MCIVER

FINAL ORDER BY DEFAULT

1.

1.1 On June 1, 2016, the Real Estate Commissioner issued, by certified mail, a notice of intent to levy a civil penalty and to revoke Benjamin F. McIver's (McIver) property manager license. The Oregon Real Estate Agency (OREA) sent the notice of intent to McIver's last known address of record with OREA and also mailed it to McIver's new address (as determined from the investigation). The notice of intent was also mailed to McIver by regular first class mail in a handwritten envelope to both the address of record and McIver's new address. The certified mailings for both mailings was returned, marked "RETURN TO SENDER UNCLAIMED UNABLE TO FORWARD." Neither of the first class mailings in the handwritten envelopes were returned to OREA.

1.2 By letter dated June 19, 2016, McIver requested a hearing in this matter.

1.3 On August 17, 2016, the Real Estate Commissioner issued, by certified mail an amended notice of intent. OREA mailed the amended notice of intent to McIver's new address (determined from the investigation). The notice of intent was also mailed to McIver by regular first class mail in a handwritten envelope to McIver's new address. The certified mailing was returned marked, "RETURN TO SENDER UNCLAIMED UNABLE TO FORWARD." The first class mailing in the handwritten envelope was not returned to OREA.

1.5 On September 28, 2016, OREA emailed a copy of the amended notice of intent to McIver using the email address on record.

1.6 OREA file was forwarded to the Office of Administrative Hearings. A hearing date was set for January 10, 2017 at 9:00 AM. McIver did not appear at the hearing, nor did McIver notify OREA or the Office of Administrative Hearings that he would not appear at the scheduled hearing.

1 1.7 Copies of the entire investigation file are designated as the record for purposes  
2 of default, including any submission from respondent and all information in the administrative  
3 file relating to the mailing of notices and any responses received.

4 2.

5 Based upon the foregoing and upon a review of the above described investigation  
6 reports, documents and files, the Real Estate Commissioner finds:

7 2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is  
8 properly served when deposited in the United States mail, registered or certified mail,  
9 addressed to the real estate licensee or to any other person having an interest in a proceeding  
10 before the Commissioner at the licensee's or other person's last known address of record with  
11 OREA.

12 2.2 Mclver's last known address of record with OREA was 3361 Marvin Dr., Eugene,  
13 OR 97404. A certified mailing of the notice of intent was mailed to Mclver at his last known  
14 address of record on June 1, 2016. This certified mailing was returned to OREA. The first  
15 class mailing to this address was not returned to OREA.

16 2.3 OREA also mailed the notice of intent certified mail to Mclver at his new address  
17 (obtained during the investigation) at 2571 Donegal St. Eugene, OR 97404 on June 1, 2016.  
18 The certified mailing was returned to OREA. The first class mailing to this address was not  
19 returned to OREA.

20 2.4 The amended notice of intent was mailed certified to Mclver at 2571 Donegal St.,  
21 Eugene, OR 97404 on August 17, 2016. The certified mailing was returned to OREA, however  
22 the first class mailing in the handwritten envelope mailed to this address was not returned to  
23 OREA.

24 2.4 The first class mailings of the notice of intent and amended notice of intent in the  
25 handwritten envelope have not been returned to OREA. In accordance with ORS  
26 40.135(1)(q), there is a presumption that the mailing properly addressed and placed with the  
27 U.S. Postal Service was delivered. That presumption has not been overcome by any  
28 evidence.

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3.  
FINDINGS OF FACT  
&  
CONCLUSIONS OF LAW

3.1 At all times mentioned herein, Mclver was licensed as a property manager doing business under the registered business name of Mclvers Property Management LLC.

3.2 In December 2015 OREA received a complaint from property owner Steve Robinson (Robinson)

3.3 OREA Investigator/Auditor Peter Bale (Bale) interviewed Robinson on December 22, 2015. Robinson said he had employed Mclver as his property manager since 2002 for his two rentals in Eugene. A tenant moved out of one of Robinson's rentals in August 2015, and Mclver failed to send Robinson the statements or his owner draws. Additionally, Robinson said he didn't receive any documentation or money for September 2015. Robinson confirmed, at the time of the interview, December 22, 2015, he had not heard from Mclver or received any money since July 2015. Robinson was able to access and view his owner statements from Mclver's website on November 13, 2015.

**Violation:** By failing to disburse owner payments to, or communicate with, property owner, Robinson, from July 2015 to December 22, 2015, Mclver violated ORS 696.890(4)(c), (d), (e) and (f) (2015 Edition) which states, a real estate property manager owes the property owner the following affirmative duties: (c) to exercise reasonable care and diligence; (d) to account in a timely manner for all funds received from or on behalf of the owner; (e) to act in a fiduciary manner in all matters relating to trust funds; and (f) to be loyal to the owner by not taking action that is adverse or detrimental to the owner's interest. Mclver's conduct is grounds for discipline under ORS 696.301(12) and (15).

3.4 In an email dated November 9, 2015, Robinson confirmed he was terminating the property management agreement with Mclver for both of his properties.

3.5 As of December 22, 2015, the OREA licensing database showed the following three Clients' Trust Accounts (CTA) held at US Bank registered by Mclver:

- Mclvers Property Management, LLC Pooled Clients Security Deposits ending in #0559 (CTA Sec 0559)

- 1           • Mclvers Property Management, LLC Pooled Clients' Trust Account Operating  
2           ending in #0567 (CTA 0567) and
- 3           • Mclvers Property Management, LLC Pooled Clients' Trust Account Placement  
4           ending in #0542 (CTA Placement 0542)

5           3.6    Mclver told Bale during his interview, that CTA Placement 0542 account was  
6 closed on January 28, 2014.

7           **Violation:** By failing to notify OREA within 10 days after the date CTA Placement 0542  
8 had closed, Mclver violated ORS 696.301(3) (2013 Edition) as it incorporates ORS 696.241(6)  
9 (2013 Edition) which states, a property manager or principal broker who closes a clients' trust  
10 account, shall notify the agency, within 10 business days after the date the account is closed  
11 or transferred, on a form approved by the agency.

12          3.7    During Bale's interview with Mclver on December 24, 2015, Mclver said he  
13 realized that he failed to update his address on the OREA licensing database. As of February  
14 11, 2016, the OREA licensing database, showed Mclver's main office address as 3361 Marvin  
15 Dr., Eugene OR, whereas it should have been 2571 Donegal St, Eugene, OR. Mclver was  
16 using the 2571 Donegal St, Eugene location as his main office and was living there as well.

17          **Violation:** By failing to notify OREA prior to moving his business location, Mclver  
18 violated ORS 696.301(3) (2015 Edition) as it incorporates ORS 696.200(1)(d) and (2) (2015  
19 Edition) which states, a licensed real estate property manager or principal real estate broker  
20 shall: (d) before changing a main office location, notify the Agency of the new location on a  
21 form approved by the agency and (2) the change of a business location without notification to  
22 the agency as required by subsections (1) and (5) of this section is grounds for revocation of a  
23 real estate license.

24          3.8    Bale obtained bank statements for CTA Sec 0559 and CTA 0567 from US Bank  
25 and reviewed supporting documentation. Within the copies of returned checks provided with  
26 the November 2015 CTA 0567 bank statement was check number #3408, dated 10/9/15  
27 payable to Eugene Water and Electric Board for \$225.00. The handwritten entry on the check  
28 memo was, "2571 Donegal," Lane County records showed Mclver as the owner of this house.  
29 Mclver paid for services from Eugene Water and Electric Board for the home/office he used  
30 located at 2571 Donegal St, Eugene, out of the owners CTA 0567.

1           **Violation:** By using owner funds to pay for his own personal and/or business expense  
2 Mclver violated ORS 696.301(12)( 2015 Edition) which states a licensee may be subject to  
3 discipline if they have demonstrated incompetence or untrustworthiness in performing any act  
4 for which the licensee is required to hold a license. Additionally, Mclver committed an act of  
5 fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or  
6 licensee to conduct professional real estate activity in violation of ORS 696.301(14) (2015  
7 Edition).

8           3.9     During his interview on December 24, 2015, Bale requested CTA reconciliations  
9 from Mclver. Mclver was to produce the reconciliations by December 28, 2015, for both CTA  
10 Sec 0559 and CTA 0567. Mclver failed to provide the reconciliations to OREA by the  
11 December 2015 deadline. Requests for inspection of records were made by Bale and OREA  
12 Regulations Manager, on January 6, 2016. Mclver was to produce the requested documents  
13 no later than by 5pm on January 6, 2016. Mclver failed to produce the documents by the  
14 January 6, 2016 deadline.

15           **Violation:** By failing to produce the requested documents by the deadline, Mclver  
16 violated ORS 696.301(3) (2015 Edition) as it incorporates OAR 863-025-0035(2)(b) (5-15-14  
17 Edition), which states a property manager must produce records for inspection of the Agency  
18 as follows: (b) if the Agency has reasonable grounds to believe that funds of an owner or  
19 tenant may be missing or misappropriated or that the property manager is engaging in  
20 fraudulent activity, any records demanded or requested by the Agency must be produced  
21 immediately.

22           3.10    On January 8, 2016, Mclver wrote to Bale and attached pdf files titled, "Clients'  
23 trust account November 2015" and "Clients trust account reconciliation November 2015."

24           3.11    Bale reviewed the CTA documents provided by Mclver. The documents  
25 submitted did not include the OREA required reconciliations for either account. The Owners'  
26 Reconciliation report was for bank CTA 0567. Within this report were the following items:

- 27           • "Uncleared Money In" totaling \$27,246.00. There were 16 items in the
- 28            "Uncleared Money In" schedule dating as far back as March 12, 2014 and
- 29           • "Uncleared Money Out" totaling \$18,622.94. There were 38 items in the
- 30            "Uncleared Money Out" schedule dating as far back as January 5, 2014.

- 1           • Allowing for these entries the "Bank Ledger Balance as of 11/30/2015" was  
2           \$11,766.71. The actual amount in the bank account at that date was \$3,143.65.

3           **Violation:** By allowing "Uncleared Money In" (outstanding deposits) transactions  
4 totaling \$27,260.00 to remain in the bank reconciliation for owners' account for CTA 0567 from  
5 as far back as March 12, 2014, Mclver violated ORS 696.890(4)(c) and (e) (2013 and 2015  
6 Editions) which state a real estate property manager owes the property owner the following  
7 affirmative duties: (c) to exercise reasonable care and diligence and (e) to act in a fiduciary  
8 manner in all matters relating to trust funds. Mclver's conduct is grounds for discipline under  
9 ORS 696.301(12) and (15).

10           **Violation:** By allowing, "Uncleared Money Out" (outstanding checks and payments)  
11 transactions totaling \$18,622.94 to remain in the bank reconciliation for CTA 0567, from as far  
12 back as January 5, 2014, Mclver violated ORS 696.890(4)(c) and (e) (2013 and 2015 Editions)  
13 which state a real estate property manager owes the property owner the following affirmative  
14 duties: (c) to exercise reasonable care and diligence and (e) to act in a fiduciary manner in all  
15 matters relating to trust funds. Mclver's conduct is grounds for discipline under ORS  
16 696.301(12) and (15).

17           3.12 On January 14, 2016, Mclver sent Bale reconciliation reports for September and  
18 October 2015 for CTA Sec 0559 and CTA 0567. The reconciliation documents did not include  
19 the following required supporting documentation: owners' ledgers, tenants' ledgers, and the  
20 receipts and disbursement reports. The reconciliation report did not contain the required three  
21 components and was not signed or dated.

22           **Violation:** By failing to properly complete the clients' trust account and security deposit  
23 account reconciliation, containing the required three components, Mclver violated ORS  
24 696.301(3) (2015 Edition) as it incorporates OAR 863-025-0025(20) and (21) (5-15-2014  
25 Edition) which requires a property manager to reconcile each clients' trust account and security  
26 deposit account within 30 calendar days of the date of the bank statement, and the  
27 reconciliation document must contain the required three components and be signed and dated.

28           3.13 On January 21, 2016, Mclver met with Bale at OREA. During the meeting Mclver  
29 printed out the ePayments Batch Report listing for November 2015, which listed the total for  
30 the automated transfer of owners' draws paid. Mclver also printed out a list of owners'  
balances for November 2015.

1           3.14 Bale created a spreadsheet from the list of owners' balances provided by Mclver.  
2 The spreadsheets included the following four negative balances:

- 3           • Marilyn Nichols                                 -\$2,752.25
- 4           • Mike Davis   -\$1,075.00
- 5           • Randy and Karen Feldhaus                       -\$4,645.00
- 6           • Richard Wirkus                                     -\$50.00

7 The spreadsheet included two owner accounts for Mclver, one of which was negative:

- 8           • Ben Mclver   \$4,241.87
- 9           • Mclvers PM LLC                                   -\$7,716.49

10 Mclver said the account with the positive balance was for the house he was living in, which he  
11 owned, and had previously been a rental home.

12           **Violation:** By allowing negative balances in the November 2015 report of the property  
13 owner's ledger accounts for Marilyn Nichols (-\$2,752.25), Mike Davis (-\$1,075.00), Randy and  
14 Karen Feldhaus (-\$4,645.00), and Richard Wirkus (-\$50.00), Mclver violated ORS 696.301(3)  
15 (2015 Edition) as it incorporates OAR 863-025-0025(12) (5-14-15 Edition), which states a  
16 property manager may not disburse funds from a clients' trust account or security deposits  
17 account unless there are sufficient funds in the ledger account against which the disbursement  
18 is made.

19           **Violation:** By allowing his own funds to be commingled in the property owners clients'  
20 trust account Mclver violated ORS 696.301(3)(2015 Edition) as it incorporates OAR 863-025-  
21 0025(3)(a) (5-14-2015 Edition) which states, only funds received by the property manager on  
22 behalf of an owner may be held in a clients' trust account. Mclver also violated ORS  
23 696.301(3) (2015 Edition) as it incorporates ORS 696.241(7) (2015 Edition) which states a  
24 property manager may not commingle any other funds with the trust funds held in a clients'  
25 trust account, except for earned interest on a clients' trust account as provided in subsections  
26 (9) and (10).

27           3.15 To calculate the estimated range of shortfall in the bank account two different  
28 calculations were performed.

29           Comparing the bank statement to the total of positive owners' ledger balances:

- 30           • As of November 30, 2015, the balance at US Bank for CTA 0567 was \$3,143.65.  
            The total from the spreadsheet created by Bale for positive owners' ledger

1 balances was \$24,139.39. In comparing the bank statement balance of  
2 \$3,143.65 against the total of positive owners' ledger balances of \$24,139.39,  
3 there is an estimated shortfall of \$20,995.74 in the bank account.

4 Comparing the check register to the total of positive owners' ledger balance:

- 5 • In comparing the total of positive owners' ledger balances of \$24,139.39 against  
6 the check register balance as of November 30, 2015, which was \$11,766.71,  
7 there is an estimated shortfall of \$12,372.68 in the bank account.

8 The estimated bank account shortfall ranges from \$12,372.68 to \$20,995.74.

9 **Violation:** By causing and/or allowing a short fall to exist in CTA 0567 Mclver  
10 demonstrated incompetence or untrustworthiness in performing any act for which the licensee  
11 is required to hold a license, in violation of ORS 696.301(12) (2015 Edition). Additionally,  
12 Mclver committed an act of fraud or engaged in dishonest conduct substantially related to the  
13 fitness of the applicant or licensee to conduct professional real estate activity, in violation of  
14 ORS 696.301(14) (2015 Edition) Lastly, Mclver violated ORS 696.890(4)(c),(e), and (f) (2015  
15 Edition) which states, a real estate property manager owes the property owner the following  
16 affirmative duties: (c) to exercise reasonable care and diligence; (e) to act in a fiduciary  
17 manner in all matters relating to trust funds; and (f) to be loyal to the owner by not taking action  
18 that is adverse or detrimental to the owner's interest.. Mclver's conduct is grounds for  
19 discipline under ORS 696.301(15).

20 3.16 All of the above demonstrate incompetence or untrustworthiness for which  
21 Mclver is required to hold a license.

22 **Violation:** ORS 696.301(12) (2015 Edition), which states a licensee's real estate  
23 license can be disciplined if they have demonstrated incompetence in performing any act for  
24 which the licensee is required to hold a license.

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4.1 The above violations are grounds for discipline pursuant to ORS 696.301. Based on these violations, OREA is revoking Mclver's property manager license. A revocation is appropriate under ORS 696.396(2)(c)(A), (B), and (C) (2015 Edition). According to ORS 696.396, OREA may revoke a real estate license if material facts establish a violation of a ground of discipline under ORS 696.301 that results in significant damage or injury, exhibits incompetence in the performance of professional real estate activity, or exhibits dishonesty or fraudulent conduct.

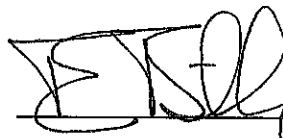
ORDER

IT IS HEREBY ORDERED that Mclver's property manager license is revoked.

IT IS FURTHER ORDERED that pursuant to ORS 696.990(6) and based upon the violation of Mclver failing to produce his property management records, Mclver pay a civil penalty in the sum of \$10,000, and said penalty to be paid to the General Fund of the State Treasury by paying the same to OREA.

Dated this 20<sup>th</sup> day of JANUARY, 2017.

OREGON REAL ESTATE AGENCY



GENE BENTLEY

Real Estate Commissioner

Date of Service: 1/20/2017

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this order. Judicial review is pursuant to the provisions of ORS 183.482.

1 REAL ESTATE AGENCY  
2 BEFORE THE REAL ESTATE COMMISSIONER  
3

4 In the Matter of the Real Estate License of )

5  
6  
7 ANTHONY MARK FORHAN )

STIPULATED FINAL ORDER

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10 The Oregon Real Estate Agency (OREA) and Anthony Mark Forhan (Forhan) do hereby  
11 agree and stipulate to the following:

12 FINDINGS OF FACT  
13 &  
14 CONCLUSIONS OF LAW

15 1.

16 1.1 At all times mentioned herein, Forhan was licensed as a property manager doing  
17 business under the registered business name of Bridge City Properties, LLC.

18 1.2 OREA received several complaints regarding Forhan, two of which were opened  
19 into investigations. The first complaint was received on May 10, 2014, from Loel Laughlin  
20 (Laughlin), the second was received on July 10, 2015, from Edwin Paul Newcomb (Newcomb).

21 **Details from Complaint/Investigation from Laughlin 2014 Complaint:**

22 1.3 Laughlin's complaint centered around Forhan's handling of security deposit  
23 funds.

24 1.4 The investigation from the complaint from Laughlin revealed that Forhan allowed  
25 his license to expire on two different occasions, while he continued to do property  
26 management activity. The first incident was from February 1, 2012 to March 12, 2012. Forhan  
27 stated he became aware of his expired license when he was contacted by OREA by email  
28 about Bridge City Properties, LLC's lack of an associated licensee. During his interview with  
29 OREA Investigator/Auditor Frances Hlawatsch (Hlawatsch) on October 3, 2014, Forhan readily  
30 admitted to conducting professional real estate activity while his license was expired.

1           1.5     The second incident that Forhan's license expired was on February 1, 2014. His  
2 license was not renewed until April 10, 2014. An online search of Bridge City Properties  
3 resulted in rental advertisements which were posted during the unlicensed period. In his  
4 interview, Forhan said it was, "business as usual," during this period.

5           **Violation:** By continuing to conduct management of rental real estate activity from  
6 February 1, 2012 to March 14, 2012 (43 days), while his license was expired, Forhan violated  
7 ORS 696.020(2011 Edition), which states an individual may not engage in, carry on, advertise  
8 or purport to engage in or carry on professional real estate activity, or act in the capacity of a  
9 real estate licensee, within this state unless the individual holds an active license.

10           **Violation:** By continuing to conduct management of rental real estate activity from  
11 February 1, 2014 to April 9, 2014 (68) days, while his license was expired, Forhan violated  
12 ORS 696.020(2013 Edition), which states an individual may not engage in, carry on, advertise  
13 or purport to engage in or carry on professional real estate activity, or act in the capacity of a  
14 real estate licensee, within this state unless the individual holds an active license.

15           1.6     A review of Forhan's April 10, 2014, renewal application showed Forhan  
16 answered, "No" to question 14, which asks if the licensee had conducted professional property  
17 management activity at any time while the license was expired.

18           **Violation:** By providing a false answer on the renewal application, Forhan violated ORS  
19 696.301(12) (2013 Edition) which states a licensee's real estate license may be disciplined if  
20 they have demonstrated incompetence or untrustworthiness in performing any act for which  
21 the licensee is required to hold a license.

22           1.7     On October 3, 2014, Hlawatsch interviewed Forhan. Forhan's main office  
23 address in OREA licensing records was 14 NE 17<sup>th</sup> Street, Portland Oregon, which was  
24 Forhan's previous home address. During the interview, Forhan explained that he was  
25 unaware there was an issue with the business address of record, since he had updated his  
26 address for his license. He stated he would correct the problem immediately. Forhan followed  
27 up with an email dated October 14, 2014, in which he stated the main office address had been  
28 corrected.

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1           **Violation:** By failing to update the main office address, Forhan violated ORS 696.301(3)  
2 as it incorporates ORS 696.200(1)(d)(2) (5-15-14 Edition), which requires a property manager  
3 to notify the Agency prior to changing a main office location. Change of a business location  
4 without notification to the agency as required is grounds for revocation of a real estate license.

5           1.8 Forhan told Hlawatsch that Zack Hagar, who was the Client Services and Tenant  
6 Relations Manager for Bridge Cities Properties, LLC completed the three way reconciliations  
7 for the clients' trust accounts. All accounting transactions were prepared by Hagar and were  
8 finalized by Forhan.

9           1.9 Forhan did not have a written delegation of authority on file for Zack Hagar.  
10 Forhan described Hagar's main duties as tenant relations such as applicant screening,  
11 maintenance request processing, and account processing.

12           **Violation:** By failing to have a written delegation of authority on file for Zack Hager,  
13 Forhan violated ORS 696.301(3) as it incorporates OAR 863-025-0015(1)(3)(c)(D)(6)(b) (5-15-  
14 14 Edition), which states each property manager must develop, maintain, and follow written  
15 policies for persons and activities under this rule. Policies must specify the duties,  
16 responsibilities, supervision and authority, including any authority to handle funds in a clients'  
17 trust account or security deposit account for the following persons: (a) an employee of the  
18 property manager, including any authority to: (D) conduct tenant relations. The following  
19 delegations of the property manager's authority must be in writing, dated and signed by the  
20 property manager, and kept with written policies: (b) review and approve reconciliations and  
21 receive and disburse funds under OAR 863-025-0025(23).

22           1.10 On October 3, 2014, Hlawatsch requested copies of the clients' trust accounts  
23 reconciliations at close of the interview. Multiple requests were made to Forhan requesting  
24 him to provide the reconciliation documents. On January 15, 2015, Forhan emailed  
25 Hlawatsch, "We will be putting together a current reconciliation for you at the end of this month.  
26 This'll be the month we start doing monthly reconciliations moving forward. I'll be in touch  
27 beginning of Feb when we have the one ready for you."

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1           1.11 Hlawatsch continued to make multiple requests to Forhan for reconciliation  
2 documents. On February 25, 2015, a formal request for documents was mailed to Forhan and  
3 also emailed. Forhan was directed to produce completed three way reconciliations for both  
4 clients' trust accounts and security deposits accounts by March 4, 2015. Forhan missed the  
5 March 4, 2016 deadline. On March 9, 2015, Forhan submitted a reconciliation form for the  
6 security deposits account. There was no bank statement, check register or tenant ledger  
7 information provided.

8           **Violation:** By failing to properly reconcile the clients' trust account and security deposits  
9 account, Forhan violated ORS 696.301(3) as it incorporates OAR 863-025-0025(20) and (21)  
10 (5-15-14 Editions) which require a property manager to reconcile each clients' trust account  
11 and security deposits account within 30 calendar days of the date of the bank statement.  
12 Additionally, by failing to properly reconcile the clients' trust account and security deposits  
13 account, Forhan demonstrated incompetence or untrustworthiness in violation of ORS  
14 696.301(12) (2013 and 2015 Edition), which states a licensee's real estate license may be  
15 disciplined if they have demonstrated incompetence or untrustworthiness in performing any act  
16 for which the licensee is required to hold a license.

17           1.12 Additional reconciliation documents were submitted by Forhan. Multiple  
18 deficiencies were found in the documents. The account registers submitted lacked detail. The  
19 record of receipts did not include the date funds were deposited, and the disbursement records  
20 did not contain a running balance, check numbers or the purpose of all payments.

21           **Violation:** By failing to maintain a proper check register Forhan violated ORS  
22 696.301(3) as it incorporates OAR 863-025-0040(2)(a)(C)(c)(e) (5-15-14 Edition), which states  
23 a record of receipts and disbursements or check register must contain at least the following  
24 information for each receipt and disbursement: (C) the purpose of the funds and the identity of  
25 the person who tendered the funds, (c) if there is more than one property in a clients' trust  
26 account, each entry for a receipt, deposit or disbursement must be identified with the  
27 applicable identifying code; (e) the account balance after each entry.

28           1.13 Aside from multiple issues discovered surrounding the clients' trust accounts,  
29 Forhan's reconciliation documents showed the clients' trust account and security deposit  
30 account did not balance.

1           **Violation:** Forhan's inability to account for all clients' trust account funds demonstrated  
2 incompetence in violation of ORS 696.301(12) (2013 and 2015 Editions), which states a  
3 licensee's real estate license may be subject to discipline if they have demonstrated  
4 incompetence or untrustworthiness in performing any act for which the licensee is required to  
5 hold a license.

6           1.14 As of August 25, 2014, licensing records for Bridge City's, LLC included clients'  
7 trust account information for three accounts with West Coast Bank ending in #1223, #2155,  
8 and #3187, which all appeared to be open. During Hlawatsch' s October 2014 interview with  
9 Forhan, he stated all of the clients' trust accounts are held with Bank of America and the West  
10 Coast Bank accounts were closed a couple of years prior.

11           1.15 During the October 2014 interview, Forhan also acknowledged that he never  
12 reported the clients' trust accounts he had opened with Bank of America in August 2011 to  
13 OREA ending in #8861, #8687 and #8674 as required. On October 8, 2014, Forhan updated  
14 the clients' trust account information in the OREA's licensing database.

15           **Violation:** By failing to update the bank account information in eLicense, Forhan  
16 violated ORS 696.301(3) as it incorporates ORS 696.241(5) (2011 and 2013 Editions), which  
17 states a licensed property manager who closes a clients' trust account shall notify the agency  
18 within 10 business days after the account is closed or transferred on a form approved by the  
19 agency.

20           **Violation:** By failing to notify OREA after opening the new clients' trust accounts with  
21 Bank of America, Forhan violated ORS 696.301(3) as it incorporates ORS  
22 696.241(4)(a)(b)(c)(d) and (e) (2013 Edition), which states within 10 business days after the  
23 date a clients' trust account is opened a licensed property manager shall file with the agency,  
24 on forms approved by the agency, the following information about the clients trust account: a)  
25 the name of the bank, b) the account number, c) the name of the account, d) the date the  
26 account was opened; and e) a statement by the licensed property manager authorizing the  
27 Real Estate Commissioner or the commissioner's representative to examine the clients' trust  
28 accounts at such time as the commissioner may direct.

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1           1.16 Per the OREA licensing database on January 8, 2015, the clients' trust accounts  
2 held with Bank of America ending in #8661 and #8687 were titled "Client Trust Acct- Rental,"  
3 and "Client Trust Account- Reserve."

4           **Violation:** By failing to have the clients' trust accounts properly named, Forhan violated  
5 ORS 696.301(3) as it incorporates OAR 863-025-0025(2) (2015 Edition), which requires a  
6 property manager to open and maintain at least one clients' trust account as defined in OAR  
7 863-025-0010. Per OAR 863-025-0010(5): "Clients' Trust Account," means a federally insured  
8 bank account labeled as "Clients' Trust Account," on all bank records and checks that is  
9 established and maintained by a property manager.

10           1.17 Per OREA licensing database on January 8, 2015, the security deposit account  
11 held with Bank of America ending in #8674 was named Client Trust Account- Security  
12 Deposit."

13           **Violation:** By failing to have the security deposits account named properly Forhan  
14 violated ORS 696.301(3) as it incorporates OAR 863-025-0025(4) (5-15-2014 Edition), which  
15 requires a property manager who receives a security deposits on behalf of an owner must  
16 open and maintain a security deposit account, as defined in OAR 863-025-0010. Per OAR  
17 863-025-0010(15) "Security Deposits Account," means a federally insured clients' trust account  
18 labeled as "Clients' Trust Account- Security Deposits," on all bank records and checks that is  
19 established and maintained by a property manager, activity in fiduciary capacity on behalf of  
20 an owner under a property management agreement for depositing, holding and disbursing  
21 security deposit funds.

22           1.18 On March 26, 2015, OREA Auditors/ Financial Investigators Peter Bale and  
23 Hlawatsch visited Bridge Cities Properties to address disparities in the account reconciliations.  
24 The investigators noted there was no exterior sign indicating that Bridge Cities Properties, LLC  
25 was operating out of Forhan's home. There was a sign present inside the building which was  
26 visible only when the garage door was opened (this sign did not contain the entire registered  
27 business name, see paragraph 1.19 below). Forhan stated that a sign had been ordered and  
28 would be up soon.

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1           **Violation:** By not having an exterior sign at the main office, Forhan violated ORS  
2 696.301(3) as it incorporates ORS 696.200(1)(c) (2015 Edition), which states a licensed  
3 property manager shall designate the main office by a sign that contains the name under which  
4 the licensee conducts professional real estate activity.

5           1.19 During the investigation, it was discovered that some of Forhan's advertising for  
6 Bridge City Properties LLC, such as the sign at the office (in Forhan's garage), email signature  
7 and Bridge City Properties Facebook account did not include the full registered business  
8 name.

9           **Violation:** By not using the full registered business name in the advertising, Forhan  
10 violated ORS 696.301(3) as it incorporates ORS 696.026(6)(b) (2013 and 2015 Edition), which  
11 states all professional real estate activity conducted by the property manager must be  
12 conducted under the registered business name.

13           1.20 On June 21, 2016, Forhan was directed to present the most recently completed  
14 clients' trust account reconciliations for both trust accounts. Forhan timely submitted the  
15 requested documents. Both the clients' trust account and security deposits account appeared  
16 to be in balance. All three components were reconciled and in balance.

17 **Details from Complaint/Investigation from Newcomb 2015 Complaint:**

18           1.21 Newcomb's complaint alleged that Forhan failed to release all funds due to  
19 Newcomb upon termination of the property management agreement. Newcomb's complaint  
20 also alleged that Forhan delayed in making the utility payments causing the accounts to  
21 become delinquent and additional fees to be added.

22           1.22 Forhan was hired by Newcomb to manage one of his two rental units located at  
23 1545 SE Henry Street, Portland Oregon (subject property). Per the property management  
24 agreement Forhan was responsible for utility payments, including water and gas bills.

25           1.23 Forhan procured tenants for the lower level rental unit and they entered into a  
26 lease, effective March 1, 2015. There was already a tenant in the upper level of the unit,  
27 placed by Newcomb and managed by Newcomb.

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1 1.24 Portland Water Bureau assessed charges and sent out a bill for \$317.90 on  
2 February 19, 2015. A late fee of \$3.19 was added on March 19, 2015. Forhan paid \$317.90  
3 on March 23, 2015. The late fee was left outstanding. A bill for \$321.71 was sent on May 18,  
4 2015. This bill became past due on June 18, 2015, and a \$3.21 fee was added to the account.  
5 On July 6, 2015, an additional \$5.00 late fee was accessed.

6 1.25 The water bill was brought current on July 10, 2015, when Newcomb remitted a  
7 payment of \$333.10. Newcomb had expected Forhan to pay this bill as he had agreed to in  
8 the property management agreement.

9 **Violation:** By failing to timely pay the water bill on multiple occasions, and failing to pay  
10 the July 6, 2015 water bill, Forhan violated ORS 696.890(4)(c)(2015 Edition), which states a  
11 property manager owes the property owner the following affirmative duties: (c) to exercise  
12 reasonable care and diligence. Forhan's conduct is grounds for discipline under ORS  
13 696.301(15).

14 1.26 On March 25, 2015, Northwest Natural added a \$73.94 charge to Newcomb's  
15 gas bill. This bill was not paid on time. On April 23, 2015, a \$72.43 charge was added to the  
16 account. On May 21, 2015, Forhan paid \$146.37, which included the March and April charges  
17 and brought the account current. On May 22, 2015, a charge of \$52.49 was added. This bill  
18 was not paid until June 25, 2015.

19 **Violation:** By failing to timely pay the utility bill on multiple occasions Forhan violated  
20 ORS 696.890(4)(c)(2015 Edition), which states a property manager owes the property owner  
21 the following affirmative duties: (c) to exercise reasonable care and diligence. Forhan's  
22 conduct is grounds for discipline under ORS 696.301(15).

23 1.27 Forhan explained to Hlawatsch, that the reason the utilities had been paid late  
24 was that the bills had most likely not made it to him in a timely manner and there were not  
25 sufficient funds in the account when the bills did arrive.

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1           1.28 On June 26, 2015, Newcomb prepared a termination letter. On July 13, 2015,  
2 Bridge City Properties, LLC issued a final disbursement of \$1,825.00 to Newcomb. Forhan  
3 sent an accompanying owner ledger which incorrectly indicated that \$324.89 had been paid to  
4 the Portland Water Bureau on June 23, 2015. Newcomb emailed Forhan on July 13, 2015, to  
5 address the shortage in the refund payment. Newcomb informed Forhan that he had paid  
6 \$324.89 directly to Portland Water Bureau on July 10, 2015, as the bill was still unpaid at the  
7 time. Forhan initially indicated to Hlawatsch that he had paid \$324.89 to Portland Water  
8 Bureau on June 25, 2015. In his response to the complaint, he included documentation of this  
9 payment being scheduled through Bank of America's online system. Per the Portland Water  
10 Bureau account history, there was no record of this payment being applied.

11           1.29 When Forhan researched the issue further at the time of the investigation, he  
12 determined that one of the payments to Portland Water Bureau had been remitted on behalf of  
13 another client. He said that when he learned of this error he immediately cut a refund check  
14 for \$350.00 to Newcomb. Forhan submitted a copy of the check, dated October 26, 2015,  
15 along with a copy of a letter for explanation, which he had sent to Newcomb.

16           **Violation:** By failing to pay the water and utility bills on time, failing to pay the \$324.89  
17 bill to Portland Water Bureau, and failing to properly account for the \$324.89 to Newcomb,  
18 Forhan demonstrated incompetence in violation of ORS 696.301(12) (2015 Edition) which  
19 states a licensee may be subject to discipline if they have demonstrated incompetence or  
20 untrustworthiness in performing any act for which the licensee is required to hold a license.

21           **Violation:** By failing to properly account for the \$324.90 Portland Water Bureau bill by  
22 failing to provide Newcomb with the funds and correct final accounting of the owner's ledger  
23 account within 60 days of the termination of the property management agreement Forhan  
24 violated ORS 696.301(3) as it incorporates OAR 863-025-0070(2)(b)(A)(B) (5-15-14 Edition)  
25 which states, not later than 60 days after the effective date of the termination, the property  
26 manager must provide the owner with the following: (A) a final accounting of the owner's  
27 ledger account; and (B) All funds belonging to the owner as shown on the owner's ledger,  
28 unless the owner directs the property manager, in writing, to transfer the funds to another  
29 property manager, escrow agent, or person.

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1           1.30 In May 2015, (prior to the property management agreement being terminated)  
2 the dishwasher in the subject property's lower unit became inoperative. Multiple emails  
3 between Forhan and Newcomb were sent regarding the purchase of the unit. Forhan indicated  
4 he was waiting for rent funds to purchase the unit. On June 8, 2015, Forhan emailed  
5 Newcomb stating that he, "fronted the money" for the dishwasher, and that only a portion of the  
6 rent had been paid, and there was a "lag in deposits" due to the tenant making online rent  
7 payments.

8           1.31 On June 10, 2015, Forhan emailed Newcomb stating the dishwasher would,  
9 "cost under \$300, installation will be \$134."

10           1.32 The investigation showed that the unit Forhan had ordered on June 13, 2015,  
11 was \$399.00 instead of, "under \$300.00," as Forhan had represented previously to Newcomb.  
12 The total invoice amount was \$553.99, which included the machine, hose and installation fee.

13           1.33 On June 22, 2015, Forhan emailed Newcomb a copy of the owner statement.  
14 The dishwasher was not accounted for on the statement. Forhan explained that this was due  
15 to Bridge Cities Properties, LLC not having been billed for it yet.

16           1.34 On June 23, 2015, further disagreement arose regarding the dishwasher unit  
17 Forhan ordered, and Newcomb asked Forhan to cancel the order. Forhan indicated to  
18 Newcomb that the unit he had ordered cost \$279 and told Newcomb he had cancelled the  
19 order.

20           **Violation:** By mishandling the payment arrangement for the dishwasher Forhan violated  
21 ORS 696.890(4)(a) (2015 Edition) which states a property manager owes the property owner  
22 the following affirmative duties: (a) to deal honestly and in good faith. Forhan's conduct is  
23 grounds for discipline under ORS 696.301(15).

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ORDER

IT IS HEREBY ORDERED that Forhan's property manager license be, and hereby is, reprimanded.

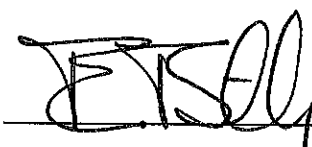
IT IS FURTHER ORDERED that Forhan complete the 27-hour Property Manager Advanced Practices Course, (detailed in OAR 863-022-0022) no later than four (4) months from the effective date of this order. Forhan must submit documentation, such as a certificate to OREA showing completion of the 27-hour Property Manager Advanced Practices course. This documentation must be submitted to OREA no later than 10 days after the education has been completed.

IT IS FURTHER ORDERED that pursuant to ORES 696.990(1) to (9) and based upon the violations of conducting management of rental real estate activity when his license was expired, Forhan pay a civil penalty in the sum of \$ 1,600.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to OREA. The civil penalty is computed in accordance with ORS 696.990(4) and (9), in that each 30 day period of unlicensed activity is considered one violation. In this instance, there was: a) one 30 day period (February 1, 2012-March 14, 2012), for which the civil penalty assessed is \$100.00, b) two 30-day periods of unlicensed activity (February 1, 2014 to April 9, 2014), for which the civil penalty assessed is \$1,500.00.

IT IS SO STIPULATED:

IT IS SO ORDERED:

  
ANTHONY MARK FORHAN

  
GENE BENTLEY

Real Estate Commissioner

Date 11-16-16

Date 11-29-16

Date of Service: 11/29/2016

1 REAL ESTATE AGENCY  
2 BEFORE THE REAL ESTATE COMMISSIONER  
3

4 In the Matter of the Real Estate License of )  
5

6 JERRY PATRICK BOEHNEN )

STIPULATED FINAL ORDER  
7  
8  
9

10 The Oregon Real Estate Agency (OREA) and Jerry Patrick Boehnen (Boehnen) do  
11 hereby agree and stipulate to the following:

12 FINDINGS OF FACT

13 &

14 CONCLUSIONS OF LAW

15 1.

16 1.1 Boehnen was licensed as a real estate broker working under Exit Rookstool  
17 Moden Realty Co. (Exit Rookstool), from July 30, 2008 to January 1, 2013. Since January 30,  
18 2014, Boehnen has been working under EXP Realty, LLC.

19 1.2 On September 23, 2014, OREA received a copy of a civil complaint from  
20 Katherine Ash (Ash) against Boehnen. On January 5, 2015, OREA opened an investigation.

21 1.3 Boehnen represented both Ash as the buyer, and the sellers, Thomas and Maria  
22 Dickerts (Dickerts) during Ash's purchase of 2210 Vine Ave, Klamath Falls (subject property).

23 1.4 The subject property was owned by Boehnen's in-laws, the Dickerts. Boehnen  
24 helped his father-in-law do some repairs after the house was purchased.

25 1.5 On July 22, 2010, Ash signed an offer on the subject property. The Dickerts  
26 accepted the offer on the same day, with Boehnen representing both Ash and the Dickerts.

27 1.6 The Professional Inspection Addendum to the sales agreement stated Ash would  
28 order and pay for a professional home inspection. Time was of the essence on July 22, 2010,  
29 and the default language stated the home inspection was supposed to be ordered and  
30 completed with the report delivered to Ash, within 10 business days after written acceptance of  
the agreement. The "inspection period" was to be followed by the "negotiation period" of the

1 default 3 days from the earlier of the receipt of the report or after expiration of the inspection  
2 period. According to the document, a pest and dry rot inspection was not going to be done.

3 1.7 On August 26, 2010, the property was inspected, and the inspection report was  
4 completed on August 30, 2010. Boehnen failed to have the parties agree per addendum for  
5 the lapse of time regarding the inspection period and negotiation period.

6 1.8 Escrow was opened on August 30, 2010 at Aspen Title & Escrow, Inc. (Aspen  
7 Title). On August 30, 2010, Aspen Title sent a letter to Boehnen, enclosed was the preliminary  
8 title report and any "CCR's" for the subject property. Per the sales agreement, the transaction  
9 was subject to Ash's review and approval of the preliminary title report, recorded covenants,  
10 conditions and restrictions. According to the sales agreement, the preliminary title report for  
11 the subject property were supposed to be ordered promptly upon acceptance of the offer.

12 **Violation:** By opening escrow over a month after acceptance, Boehnen failed to  
13 exercise reasonable care and diligence, in violation of ORS 696.301(3) as it incorporates ORS  
14 696.815(2) (2009 Edition) and OAR 863-015-0135(5) (6-15-2010 Edition). ORS 696.815(2)  
15 states a real estate licensee acting pursuant to a disclosed limited agency agreement has the  
16 following duties and obligations (a) To the seller, the duties under ORS 696.805, (b) To the  
17 buyer, the duties under ORS 696.810. Per ORS 696.805(3)(a) and ORS 696.810(3)(a), a  
18 licensee owes the buyer and seller the following affirmative duties: (a) To exercise reasonable  
19 care and diligence.

20 1.9 Boehnen ordered a pest and dry rot inspection, the report was dated September  
21 24, 2010. On September 24, 2010, Ash was billed for the pest and dry rot inspection, and  
22 shows that a fee of \$165.00 was due at close of escrow. Ash's signature appears on the  
23 invoice. Boehnen failed to have the parties agree per addendum regarding the pest and dry  
24 rot inspection. Per the Professional Inspection Addendum the pest and dry rot inspection was  
25 not going to be done.

26 1.10 According to the sales agreement, closing was required no later than August 31,  
27 2010. The sale closed on September 27, 2010. Boehnen failed to have both parties sign a  
28 written extension.

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1           **Violation:** By neglecting to timely address the following in addenda to the sales  
2 agreement: a) an extension to the inspection period and negotiation period, prior to the  
3 professional home inspection that occurred on August 26, 2010, b) a pest and dry rot  
4 inspection not initially agreed to in the agreement, but which occurred on September 24, 2010,  
5 and c) an extension to the closing date of the transaction from August 31, 2010, to September  
6 27, 2010, Boehnen failed to exercise reasonable care and diligence to all parties in the  
7 transaction in violation of ORS 696.301(3) as it incorporates ORS 696.815(2)(a)(b) (2009  
8 Edition), which states a real estate licensee acting pursuant to a disclosed limited agency  
9 agreement has the following duties and obligations (a) To the seller, the duties under ORS  
10 696.805, (b) To the buyer, the duties under ORS 696.810. Per ORS 696.805(3)(a) and ORS  
11 696.810(3)(a), a licensee owes the buyer and seller the following affirmative duties: (a) To  
12 exercise reasonable care and diligence. Additionally, Boehnen violated ORS 696.301(3) as it  
13 incorporates OAR 863-015-0135(5) (6-15-10 Edition), which states real estate licensees must  
14 include all of the terms and conditions of the real estate transaction in the offer to purchase or,  
15 directly or by reference, in the counter- offer, including but not limited to whether the  
16 transaction will be accomplished by way of deed or land sales contract, and whether and at  
17 white time evidence of title will be furnished to the prospective buyer.

18           1.11 The actions noted in the above violation(s) demonstrate incompetence in  
19 performing acts for which Boehnen is required to hold a license.

20           **Violation:** ORS 696.301(12) (2009 Edition), which states a licensee's real estate  
21 license can be disciplined if they have demonstrated incompetence in performing any act for  
22 which the licensee is required to hold a license.

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

STIPULATION & WAIVER

I have read and reviewed the above findings of fact and conclusions of law which have been submitted to me by OREA and further, the order which follows hereafter. I understand that the findings of fact, conclusions of law and this stipulation and waiver embody the full and complete agreement and stipulation between OREA 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. Hearings are 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. 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 may be completed and signed by the Real Estate Commissioner or may be rejected by the Real Estate Commissioner. I 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.

ORDER

IT IS HEREBY ORDERED that Boehnen's broker license be, and hereby is, reprimanded.

IT IS SO STIPULATED:

IT IS SO ORDERED:

Jerry Boehnen  
JERRY PATRICK BOEHNEN

Gene Bentley  
GENE BENTLEY  
Real Estate Commissioner

Date 1-7-17

Date 1.9.17

Date of service: 1/9/2017

**REAL ESTATE BOARD  
REGULATION DIVISION REPORT  
June 5, 2017**

Regulation Division Manager: Selina Barnes

Compliance Specialists 3 (Compliance Coordinator): Deanna Hewitt, Rob Pierce

Financial Investigators (Investigator-Auditor): Jeremy Brooks, Aaron Grimes,

Frances Hlawatsch, Philip Johnson, Meghan Lewis, Lisa Montellano, Lindsey Nunes

Compliance Specialist 2: Carolyn Kalb

Compliance Specialists 1: Sue Davenhill, Denise Lewis, Danette Rozell

Administrative Specialist: Janae Beaver

**Division Overview**

The Regulation Division receives complaints and determines validity and assignment for investigation. Investigators gather facts (from interviews and documents), prepare a detailed written report and submit to the Manager for review. The Manager determines whether the evidence supports charging a person with a violation of Agency statutes or administrative rules, as well the appropriate resolution. The Manager conducts settlement conferences to resolve cases without a contested case hearing. If a hearing is requested, the investigator works with the Assistant Attorney General in preparing for and presenting the case at hearing.

The Compliance Specialists are responsible for conducting: mail-in audits of licensee's clients' trust accounts (CTA), expired activity investigations, background checks and self-administered compliance reviews. They also respond to inquiries regarding regulations and filing complaints from the public, licensees, and other governmental agencies.

**Workload and Activity Indicators**

The Regulations Division will have an offsite meeting on 5/31/17 for training, process review discussions and to work on the Oregon Administrative Rules draft.

Selina Barnes will presenting the "Tips for Staying Out of Trouble with the Agency" following this board meeting and in Beaverton on 6/22/17.

Selina will also be covering advertising and other issues during a Webinar sponsored by Oregon Association of Realtors on 6/7/17.

For information on investigations resulting in administrative actions, please review the "Administrative Actions Summary" section of the Board packet.

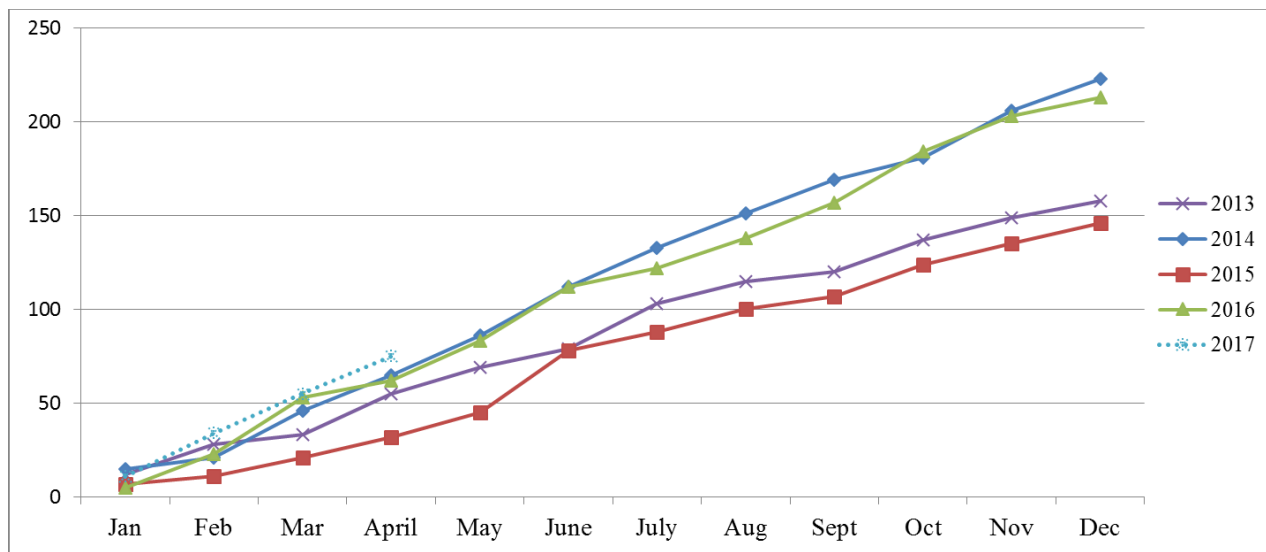
**Report to the Real Estate Board  
Land Development Division  
5 June 2017**

Division Manager: Michael Hanifin

Section Overview:

The Land Development Division reviews and approves filings related to condominiums, timeshares, subdivisions, manufactured home subdivisions, and membership campgrounds. The section reviews and approves the foundational documents creating these types of properties, as well as later amendments to those documents, to verify compliance with statutory requirements. We also issue the Disclosure Statement (sometimes referred to as a Public Report) required for sales of these interests to Oregonians. The Disclosure Statement summarizes key information about the condominium for the consumer, much like reading the window sticker when car shopping.

Workload and Activity Indicators



Filing activity through the end of April remains higher than we've seen in at least the last six years. We continue to see quite a few smaller projects in the 2 to 6 unit range as infill continues, focused primarily in the Portland-Metro area. The largest filing currently being processed is a 400-plus unit condo in the Pearl District of Portland. The majority of filings continue to be condominiums, with timeshares being the second largest type of filing by volume.

Current Projects

Following legislative activity and preparing for rulemaking resulting from anticipated passage of SB 67.

AGENCY LEGISLATION

SB 67 - Housekeeping Measure

Status: Passed without amendments from Senate to House on February 9th. House second reading on May 8<sup>th</sup>. Currently scheduled for 3<sup>rd</sup> reading in the House on May 22<sup>nd</sup>.

Summary: SB 67 makes technical fixes to Chapter 696, including updates to language and references and reorganization of some material for readability. The measure also removes the requirement that a principal real estate broker or real estate broker create a client trust account when they act as a courier by taking a check made

out to the seller or lessor from a purchaser or lessee for the purpose of conveying same to the seller or lessor. This measure also provides that a licensed real estate property manager may not solicit a potential tenant unless they have a written property management agreement with the lessor.

#### SB 68 – OREA Fee Increase

Status: Passed by the Senate without amendment on April 20th. Currently scheduled for 3<sup>rd</sup> reading in the House on May 22<sup>nd</sup>.

Summary: This bill updates fees paid to the Agency for professional licenses and other associated fees. It is linked to Policy Option Package 101.

#### HB 5037 - Governor’s Recommended Budget

Status: Enrolled. Signed by Governor Brown on May 15<sup>th</sup>.

Summary: The budget bill provides the biannual spending limitation for the Real Estate Agency. The effective date is July 1, 2017.

### ADDITIONAL LEGISLATION

The agency is tracking a variety of measures for potential impact on agency operations or on the regulated community. The measures summarized below potentially impact the agency and/or the regulated community. Longer one page summaries of each of these measures are attached to this report.

#### SB 933 – Relating to Tenant Deposits

Status: First reading March 2<sup>nd</sup>. Assigned to Senate Committee on Business and Transportation. No further activity (dead bill).

Summary: Creates a new program in the Real Estate Agency intended to mitigate the pecuniary losses suffered by landlords resulting from mismanagement by or dishonest conduct by a real estate property manager in the handling of tenant deposits. In order to recover, the landlord must have lost in an action by tenant under ORS Chapter 90 (related to tenant deposits), and such loss must have resulted from the real estate property manager engaging in mismanagement or dishonesty related to that tenant deposit. The bill establishes the Tenant Deposit Security Fund (“Fund”) for the purpose of paying out on claims by landlords. The bill redirects application and renewal fees paid by real estate property managers under ORS 696.270 into the Fund, and requires the agency to prescribe and collect an annual per-each-dwelling fee from real estate property managers, which will also be placed in the Fund. Upon complaint, the agency would conduct full investigation in order to make a determination of qualification for payment from the fund. Takes effect 91<sup>st</sup> day after adjournment Sine Die.

#### HB 3366 – Relating to Security Deposits

Status: First reading on March 6, referred to House Committee on Human Services and Housing on March 13<sup>th</sup>. No further activity (dead bill).

Summary: Requires landlord to deposit and maintain each residential tenant’s security deposit in an interest-bearing account separate from all other funds and inform tenant of financial institution in which security deposit is held. Requires landlord to pay tenant accrued interest with return of security deposit. Applies to security deposits paid on or after effective date of Act.

#### HB 3099 – Relating to Real Estate Brokers

Status: First reading March 1<sup>st</sup>, referred to House Committee on Business and Labor on March 6<sup>th</sup>. No further activity (dead bill).

Summary: Requires principal real estate brokers to complete an advanced course in brokerage practices to qualify for renewal of a principal real estate broker license. The requirement of a principal real estate broker renewing their license for the first time to complete the advanced brokerage practices course is in section 1 of the measure. The requirement that a principal real estate broker renewing for “at least a second time” complete the advanced brokerage practices course is in section 2 of the measure, and this requirement sunsets on June 30, 2020.

**REAL ESTATE BOARD  
ADMINISTRATIVE SERVICES DIVISION REPORT  
June 6, 2017**

Administrative Services Manager: Anna Higley  
Communications Coordinator: Mesheal Heyman  
Accountant: Caty Karayel  
Systems Administrator: Tiffani Miller  
Program Analyst: Rus Putintsev

Customer Service Manager: Madeline Alvarado  
Compliance Specialist: Tami Schemmel  
Licensing Specialist: Nenah Darville  
Receptionist: Liz Hayes

Section Overview

The Administrative Services Division acts as support to the Agency as well as the first point of contact for the public. This division manages budget/allotment preparation, accounting, purchasing and contracting, inventory control, facilities, payroll, special projects, information technology (IT), reception, licensing services, communications and education.

The Agency will be offering greater mobility tools for investigative and compliance staff in the coming months. Agency computers have reached the end of the lifecycle for the Regulations division and the Agency will replace these systems with laptops. Most regulatory staff work off-site and conduct field investigations. Transitioning to mobile devices will allow investigators to conduct business from any location without having to use personal devices. This ensures that information is secure, protected and in compliance with statewide standards.

The Agency will be hiring a student worker to intern with the Agency for the summer. This temporary employee will be verifying and updating the key contact of all registered business names in preparation for the implementation of an annual renewal.

Budget Update

Financial Projections: Revenue for the 15-17 biennium is expected to be **\$6.46 million**, with expenses at **\$6.8 million**, leaving an ending balance of \$675,432 (less than two months of operating expenses). The Agency's budget for 2017-19 has been signed by the Governor. This budget will maintain existing service levels.

Education

The pass rate for the broker and principal broker exams have declined since 2014. In a review conducted by the exam provider (PSI) in consultation with the Agency a link to content or education providers could not be established. The provider shared that this has been seen in other states where activity has increased at similar rates to Oregon, suggesting that the lower pass rates may be related to a greater urgency to enter the market or transition to the high level license.

Licensing

Licensing services include assisting real estate brokers, principal brokers, property managers and escrow agencies as they manage their licenses using eLicense, assisting customers as they process registered business names and branch office registrations in eLicense, registering membership campground contract brokers, completing license applicant criminal background check investigations, processing escrow licensing and security/bonding files, maintaining all licensing history records, electronic processing of fees, and providing general reception services.

Customer service is a priority for the Agency. Between January 1<sup>st</sup> and May 22<sup>nd</sup> the Agency has taken an average of 95 calls per day with an average wait time of 26 seconds. However call volume is highly correlated to month beginning and end in support of renewals where average volume is approximately 130 calls per day.

## Licensing Statistics

### Total Licensee Counts by Month:

<b>Individuals (Persons)</b>	<b>Mar-17</b>	<b>Apr-17</b>
<b>Broker – Total</b>	<b>14,394</b>	<b>14,515</b>
Active	12,726	12,866
Inactive	1,668	1,649
<b>Principal Broker - Total</b>	<b>6,390</b>	<b>6,400</b>
Active	5,999	6,012
Inactive	391	388
<b>ALL BROKERS Total</b>	<b>20,784</b>	<b>20,915</b>
Active	18,725	18,878
Inactive	2,059	2,037
<b>Property Manager - Total</b>	<b>884</b>	<b>889</b>
Active	812	818
Inactive	72	71
<b>MCC Salesperson</b>	<b>32</b>	<b>32</b>
<b>MCC Broker</b>	<b>2</b>	<b>2</b>
<b>TOTAL INDIVIDUALS</b>	<b>21,702</b>	<b>21,838</b>
Active	19,571	19,730
Inactive	2,131	2,108
<b>Facilities (Companies)</b>		
REMO	6	6
Registered Business Name (RBN)	3,372	3,370
Registered Branch Office (RBO)	724	732
Escrow Organization	48	48
Escrow Branch	146	146
PBLN	636	633
PMLN	147	148
CEP	293	296
MCC Operator	25	25
<b>TOTAL FACILITIES</b>	<b>5,397</b>	<b>5,404</b>
<b>TOTAL INDIVIDUALS &amp; FACILITIES</b>	<b>27,099</b>	<b>27,242</b>

### New Licenses by Month:

<b>Individuals (Persons)</b>	<b>Mar-17</b>	<b>Apr-17</b>
Broker	223	220
Principal Broker	9	12
<b>TOTAL BROKERS</b>	<b>232</b>	<b>232</b>
Property Manager	6	14
MCC Salesperson	0	0
MCC Broker	0	0
<b>TOTAL INDIVIDUALS</b>	<b>238</b>	<b>246</b>
<b>Facilities (Companies)</b>		
Continuing Education Provider (CEP)	0	2
REMO	0	0
Registered Business Name	24	23
Registered Branch Office	10	13
PBLN	1	5
PMLN	2	3
Escrow Organization	1	0
Escrow Branch	0	0
MCC Operator	0	0
<b>TOTAL FACILITIES</b>	<b>38</b>	<b>44</b>
<b>TOTAL INDIVIDUALS &amp; FACILITIES</b>	<b>276</b>	<b>290</b>

## Exam Statistics

April 2017 Total  
ALL LICENSING EXAMS 561

Broker	472
Property Manager	27
Principal Broker	56
Reactivation	6

## Pass Rates

<u>First Time Pass Rate</u> <u>Percentage</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Broker State	65	72	69	64	62
Broker National	77	78	78	74	73
Principal Broker State	46	61	62	59	57
Principal Broker National	86	86	78	75	74
Property Manager	55	61	59	64	71