Notice of Agenda
OREGON REAL ESTATE BOARD
Regular Meeting Agenda
Monday, October 5, 2015
Four Rivers Cultural Center
676 SW 5th Ave
Ontario, Oregon 97914

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

I. BOARD BUSINESS – Chair Hendricks
   A. Call to Order
   B. Guest Introductions/Commissioner Bentley
   C. Roll Call/Chair Hermanski comments
   D. Approval of the Agenda and Order of Business
   E. Approval of 8.3.15, regular meeting minutes
   F. Date of the Next Meeting: December 7, 2015 to begin at 10am at the Red Lion Hotel, 1313 N. Bayshore Dr., Coos Bay, OR 97420.

II. PUBLIC COMMENT
   • 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. REQUEST FOR WAIVERS – None.

IV. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER– Approval of petition log.
   A. Larry Johnson, will appear by phone.

V. BOARD ACVISE/ACTION – Deputy Commissioner Dean Owens. Law and Rule Required Course ‘LARCC” 2016-2017 Course Outline.

VI. COMMUNICATIONS – Administrative Actions Summary
VII. REPORTS
   A. Commissioner Gene Bentley
   B. Agency division reports-Oral report by Deputy Commissioner Dean Owens for all divisions
      1. Regulation Division – written report by Selina Barnes
      2. Education Division – written report by Dean Owens
      3. Land Development Division – written report by Michael Hanifin
      4. Business and Licensing Services Division – written report by Dean Owens
   C. Discuss the Agency division reports for future meetings/Dean Owens

VIII. ANNOUNCEMENTS – Next board meeting 12.7.15 to begin at 10 a.m. at the Red Lion Hotel, 1313 N. Bayshore Dr., Coos Bay, Oregon 97420.

IX. ADJOURNMENT

Interpreter services or auxiliary aids for persons with disabilities are available upon advance request.
Regular Meeting Minutes  
OREGON REAL ESTATE BOARD  
Monday, August 3, 2015

BOARD MEMBERS: Byron Hendricks, Chair  
                Bob LeFeber, Vice-Chair  
                Lawnae Hunter  
                Marcia Edwards  
                Pat Ihnat  
                Jef Farley  
                Joann Hansen  
                Chris Hermanski  
                Coni Rathbone

OREA STAFF: Gene Bentley, Commissioner  
             Dean Owens, Deputy Commissioner  
             Leandra Hagedorn, Board Liaison

GUESTS:  Dave Koch, Self  
          Alex MacLean, Self  
          Peri Henderson, Self  
          Mike and Linda Forbes, Superior Schools  
          Jason de Vries, Self  
          Michelle Deister, Legislative Fiscal

I. BOARD BUSINESS – Chair Hendricks  
   A. Call to Order.  Chair Hendricks called the meeting to order at 10:00 am.
   B. Roll Call/Chair Hendricks comments.  Chair Hendricks explained the role of the board members and also OREA staff. Chair Hendricks asked the board members to introduce themselves and give a brief description of their backgrounds. He also asked Deputy Commissioner Owens and Commissioner Gene Bentley to introduce themselves and briefly describe their backgrounds.
   C. Approval of the Agenda and Order of Business. Jef Farley pointed out that the address for the Agency was incorrect as 503 Center St NE. The correct address is 530 Center St. NE.

MOTION TO APPROVE AGENDA WITH CORRECTION OF AGENCY ADDRESS BY JEF FARLEY  
SECOND BY CONI RATHBONE  
MOTION CARRIED BY UNANIMOUS VOTE

D. Approval of 6.1.15, regular meeting minutes. 6.1.15 regular meeting minutes approved as submitted.

MOTION TO APPROVE THE 6.1.15 REGULAR MEETING MINUTES AS SUBMITTED BY MARCIA EDWARDS  
SECOND BY CONI RATHBONE  
MOTION CARRIED BY UNANIMOUS VOTE

E. Date of the Next Meeting: October 5, 2015 to begin at 10 am in Ontario, Oregon location to be determined.

   • PUBLIC COMMENT. Colin Mulano inquired about the Agency’s licensing system specifically relating to the uploading of CE hours. He requested that the system be streamlined and information updated automatically rather than the current self-reporting process. Commissioner Bentley responded that the Agency has launched a new version of the eLicensing system which is more user friendly and by mid-
Agency has launched a new version of the eLicensing system which is more user friendly and by mid-September licensees will be able to use the anytime self-reporting function within the system. He also clarified that the Agency does not have an allotment in the budget to purchase software that would allow automatic uploading of this information. Discussion: Chair Hendricks asked the board members if they were interested in taking this issue up on a future agenda. Marcia Edwards responded that as a consumer protection based Agency and board she was opposed to this. Chair Hendricks explained that was also opposed to this issue as an agenda item and called for a motion. No motion was made, therefore the issue died.

- This time is set aside for persons wishing to address the Board on matters on the agenda. Speakers will be limited to five minutes.
- The Board Chair reserves the right to further limit or exclude repetitions or irrelevant presentations. If written presentations. If written material is included, 12 copies of all information to be distributed to board members should be given to all interested parties.
- IF no one wishes to comment, the next scheduled agenda item will be considered.

II. REQUEST FOR WAIVERS-Waiver request log.
   A. Jason de Vries requests experience waiver for principal broker license. Mr. de Vries appeared in person. Chair Hendricks asked Mr. de Vries to address the board with any information he wanted to add to his request for waiver application. Mr. de Vries responded that he would rely on the information he provided in his written application and explained that in September he would meet the three years of experience requirement. Discussion: None.

MOTION TO APPROVE JASON DE VRIES’S REQUEST FOR EXPERIENCE WAIVER FOR PRINCIPAL BROKER LICENSE BY BOB LEFEBER.
SECOND BY CONI RATHBONE
MOTION CARRIED BY UNANIMOUS VOTE

III. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER-Approval of petition log.
   A. Peri Henderson will appear in person. Peri Henderson appeared in person. Chair Hendricks asked Ms. Henderson to address the board with any information she wanted to add to her written petition. Ms. Henderson explained that she held a licensee back in the 1990’s and she has been involved in real estate lending for several years as well. She also stated that she offers the following topics in her classes: RESPA, finance, and ethics which are all considered approved course topics. Vice-Chair LeFeber asked Ms. Henderson if she wanted to have the provider certification under her name or the Education Center. Ms. Henderson stated that she would like to amend her petition to reflect the Education Center as the certified provider. Discussion: Marcia Edwards stated that she appreciated that Ms. Henderson understood her limitations and expertise and deferred to other experts. Coni Rathbone clarified that as a provider Ms. Henderson could have qualified instructors teach the courses.

MOTION TO APPROVE EDUCATION CENTER’S PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER BY BOB LEFEBER
SECOND BY CONI RATHBONE
MOTION CARRIED BY UNANIMOUS VOTE

IV. BOARD ADVICE/ACTION-Deputy Commissioner Dean Owens. Land Development condominium filing fee charge. Deputy Commissioner Owens provided the board with Exhibit A (Proposed Language for OAR 863-060-0010, Condominium Fee Increase). Mr. Owens explained that the Land Development division spends a significant amount of time reviewing and approving condominium filings at the current hourly rate of $46. He also stated that the Agency reviewed this process and determined that a fee increase through statutory change was appropriate. Mr. Owens asked the board to approve the Agency to proceed with filing this rule change. Discussion: Marcia Edwards asked Mr. Owens how many hours are typically spent during the review process. Mr. Owens responded that anywhere from 5 to 18 hours could be involved based on the complexity of the filings. Bob LeFeber noted that the current statute only allows the Agency to collect $100 deposit and inquired if any issues have come up with this. Mr. Owens responded that the Agency will not be addressing the deposit. Chair Hendricks stated that he was in support of the motion to approve the fee increase.
MOTION TO APPROVE PROPOSED LANGUAGE FOR OAR 863-060-0010 CONDOMINIUM FILING REVIEW FEE INCREASE BY BOB LEFEBER SECOND BY JOANN HANSEN
MOTION CARRIED BY UNANIMOUS VOTE

V. BOARD CHAIR ELECTION. Chair Hendricks announced that he and Bob LeFeber would both be stepping down from the REA board and they both thought it would be in the best interests of transition to elect replacements at this time. Vice-Chair LeFeber nominated Chris Hermanski.

MOTION TO ELECT CHRIS HERMANSKI AS BOARD CHAIR, EFFECTIVE IMMEDIATELY FOLLOWING 8.3.15 MEETING BY BOB LEFEBER SECOND BY MARICA EDWARDS
MOTION CARRIED BY UNANIMOUS VOTE

VI. BOARD VICE CHAIR ELECTION. Vice-Chair LeFeber nominated Coni Rathbone.

MOTION TO ELECT CONI RATHBONE AS BOARD VICE-CHAIR EFFECTIVE IMMEDIATELY FOLLOWING THE 8.3.15 MEETING BY BOB LEFEBER SECOND BY JOANN HANSEN
MOTION CARRIED BY UNANIMOUS VOTE

VII. COMMUNICATIONS – Administrative Actions Summary

VIII. REPORTS
A. Commissioner Bentley:
   • The LARCC meeting was held on July 15, 2015 – The purpose of this meeting was to review and discuss course content. Stacey Harrison will present the content outline at the October 5, 2015 board meeting.
   • CTA Audits - The Agency recently revoked a license for submission of false document regarding continuing education credit and this lead to a federal investigation.
   • SOS audit – The small business section met with the Agency regarding a property manager who was having difficulty passing the exam and wanted information to assist with failed questions. The Agency’s Public Records Request process is also being audited.
   • Agency relocation – The move to Equitable Center was based on cost reduction and smaller space being more appropriate.
   • Revenue sources – The Agency will be exploring a license fee increase during the next biennium

B. Agency division reports-Deputy Commissioner Dean Owens. Mr. Owens explained that the relocation was driven by cost reduction efforts and deficit spending. He also explained that Erica Kleiner’s position (Business and Licensing Services Division Manager) will remain vacant and also that Stacey Harrison’s position (Education Division Manager) will be terminated as of November 15, 2015.
   1. Regulation Division
   2. Education Division
   3. Land Development
   4. Business and Licensing Services Division

IX. ANNOUNCEMENTS – Next Board meeting 10.5.15 to begin at 10am in Ontario, Oregon location to be determined.

X. ADJOURNMENT

Respectfully submitted: GENE BENTLEY, COMMISSIONER

Respectfully submitted: CHRIS HERMANSKI, CHAIR

Exhibits distributed:
   A. Proposed Language for OAR 863-060-0010, Condominium Fee Increase, Agenda Item No. IV
Statutory Authority to charge a fee for condominium filing and review:

100.670 Fees; hourly rate; deposit. (1) A developer or other person required to file materials or information with the Real Estate Commissioner under ORS 100.005 to 100.910 shall pay to the commissioner a fee as required under subsections (2) and (3) of this section for the review, approval and handling of the filings by the commissioner at the time of the initial filing with the commissioner.

(2) A fee charged by the commissioner under subsection (1) of this section shall be determined by the commissioner to cover the costs of the commissioner’s review, approval or revision activity. The fee shall be based upon an hourly rate that is subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board.

(3) The commissioner shall collect a deposit of $100 from a developer at the time of submitting a filing described in subsection (1) of this section. The amount of the deposit shall be deducted from the final fee computed as provided in subsection (2) of this section. [Formerly 94.354; 1991 c.703 §3]

Proposed language for new rule that establishes the fee based on the language in ORS 100.670

863-060-0010
Condominium Filing Review Fee

The hourly fee for review, approval or revision activities related to materials or information filed by a developer or other person with the Real Estate Commissioner under ORS 100.005 to 100.910 is two hundred dollars ($200) per hour. The effective date of this rule is October 1, 2015.
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<th>Facts</th>
<th>Discussion</th>
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<td>8.3.15</td>
<td>Peri Henderson</td>
<td>APPROVED</td>
<td>Ms. Henderson appeared in person. Chair Hendricks asked Ms. Henderson to address the board with any information she wanted to add to her written petition. She has been involved in real estate lending for several years as well. She also stated that she offers the following topics in her classes: RESPA, finance, and ethics which are all considered approved course topics. Vice-Chair LeFeber asked Ms. Henderson if she wanted to have the provider certification under her name or the Education Center. Ms. Henderson stated that she would like to amend her petition to reflect the Education Center as the certified provider.</td>
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<td>10.5.15</td>
<td>Larry Johnson</td>
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PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER

Rev. 7/2011

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 via mail or fax to the Agency at least 21 days before the next scheduled Board meeting at which the applicant wishes the Board to act. OAR 863-020-0025

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. 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 Larry W. Johnson Phone Number 971-404-3768

Physical Address 5515 SE Milwaukie Ave Address Cont.

City Portland State OR Zip Code 97202 County Multnomah

E-mail ljohnson@laporte-insurance.com

Mailing Address (if different) Address Cont.

City State Zip Code County

AUTHORIZED CONTACT PERSON

Prefix Mr. First Name Larry Last Name Johnson

Phone Number 971-404-3768 E-mail ljohnson@laporte-insurance.com

Provide the name of the individual that will appear in person on behalf of the Petitioner: Larry Johnson

AGENCY USE ONLY

Approved by Board YES NO

Review Date

Page 1 of 2

Continue on page 2
PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER, Continued

<table>
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<tr>
<td>Provide below sufficient information about the petitioner to allow the Board to determine whether the petitioner qualifies for certification. <strong>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.</strong> Information <strong>MUST</strong> include one or both of the following:</td>
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<td>▶ Petitioner's demonstrated expertise and experience in providing educational courses to real estate licensees.</td>
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<td>▶ Petitioner's demonstrated experience and expertise in two or more course topics eligible for continuing education credit under OAR 863-020-0035.</td>
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<td>You may attach up to <strong>three (3)</strong> additional pages if necessary.</td>
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<th>AUTHORIZATION AND ATTESTATION</th>
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<td>▶ 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.</td>
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<td>▶ 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.</td>
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<td>▶ I attest that petitioner knows and understands the responsibilities of a certified continuing education provider under OAR 863-020-0050.</td>
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<td>▶ 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.</td>
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Larry W. Johnson  
Printed Name of Authorized Individual  
Date 9/11/2015

Signature of Authorized Individual
Qualifications of Larry W. Johnson:

I have been an Active owner / Manager in multi-family properties since 1993.

I am a licensed Property / Casualty and Life / Health insurance Producer and Consultant with the State of Oregon since 2004. I am also licensed in Washington, Idaho, California, Montana, Arizona, Alaska, Ohio, and Rhode Island. I have made my living as a commercial producer since February 2004.

I currently serve as an Instructor for the National Apartment Association CAM (Certified Apartment Manager) and CAS (Certified Apartment Supplier) Risk Management Course. Instructing a 6 hour course for this nationally recognized industry designation

I earned the CIC designation in 2005. The Certified Insurance Counselor designation from the National Alliance on Insurance Research and Education has been the insurance industry’s premier, proven source for practical, real-world education since 1969. To earn this designation, I needed to pass five exams and attend 100 hours in industry specific classwork followed by 20+ hours of inb-class updates each year.

I earned my Masters of Business Administration from Portland State University in 1996.
I earned my Bachelor of Science from the University of Oregon in 1988. I graduated Phi Beta Kappa.

Possible Education Topics per OAR 863-020-0035 (4):

(r) Risk Management
   Property Insurance Basics
   Casualty Insurance Basics
   How to evaluate Earthquake insurance
   Insurance Terms
   Fundamentals of Risk Transfer
   How to read a commercial insurance policy

(l) Real Estate Contracts
   Focus on the indemnity Agreement and some critical terms: Waiver of Subrogation, Additional Insured, and Primary, Non-contributory

(o) Fair Housing Laws
   Avoiding tenant discrimination claims and how to evaluate a tenant discrimination policy

(cc) Environmental Protection Issues in Real Estate
   Common environmental problems: asbestos, lead, mold, drug lab, underground contamination and bio-hazard exposures
   How to evaluate environmental risk and techniques to transfer environmental risk
Testimonials:

Larry Johnson has taught several of our national designation classes for several years. He is a thorough and enjoyable instructor. The evaluations from his students are always excellent.

- Deborah Imse, Executive Director Multifamily NW

I have interacted with Larry for several years through involvement with Multifamily NW. He generously volunteers his time to teach several of our designation classes and receives great evaluations.

- Scott Arena 2015 Board President Multifamily NW
Law and Rule Required Course “LARRC” 2016-2017

A Required Continuing Education Course for Real Estate Licensees

Course Outline for Courses Offered January 1, 2016 to December 31, 2017

Overview

All real estate licensees who want to renew an active license are required to take a three-hour continuing education course on recent changes in real estate rule and law approved by the Oregon Real Estate Board. (ORS 696.174 and OAR 863-022-0055) The course covers important real estate statutes in ORS chapter 696 and the Real Estate Agency administrative rules in OAR chapter 863 along with changes to real estate related laws. The course is called the Law and Rule Required Course or “LARRC.” The Board-approved course content and learning objectives begins on page 3.

The following information is provided in this document:

- Information for licensees
- Information for continuing education providers, including requirements for instructors
- Board-approved course content and learning objectives for LARRC

The Board-approved course content and learning objectives must be used by certified continuing education providers who offer the LARRC course from January 1, 2016 through December 31, 2017. The course content and learning objectives are posted on the Agency’s website, www.rea.state.or.us.

Information for Licensees

All active real estate licensees must take the three-hour LARRC course from a certified continuing education provider prior to the licensee’s renewal date. The LARRC course is part of the required minimum 30 hours of continuing education for license renewal (ORS 696.174 and OAR 863-020-0010). During the license renewal process, all real estate licensees must certify that they have taken this course and met all other continuing education requirements (OAR 863-014-0050 and OAR 863-024-0050).

A real estate licensee must maintain the licensee’s own continuing education records through eLicense. The licensee must list this course as “Law and Rule Required Course 2016-2017” (OAR 863-020-0015).

Important:

- A real estate broker renewing a real estate license for the first time must take the 27-hour Broker Advanced Practices course in addition to the required three-hour LARRC course.

- A property manager renewing a real estate license for the first time must take the 27-hour Property Manager Advanced Practices in addition to the required three-hour LARRC course.

Information for Certified Continuing Education Providers

Only certified continuing education providers who have notified the Real Estate Agency through eLicense that they offer the LARRC course may offer LARRC. Only the Board-approved course content and
Learning objectives may be used for a LARRC course offered from January 1, 2016 through December 31, 2017. The course content, subjects and learning objectives are posted on the Agency’s website under “Real Estate Educators”, www.rea.state.or.us.

LARRC requirements for certified continuing education providers:

- As part of the initial certification application or updates to certification information, the course provider must inform the Real Estate Agency through eLicense that it will offer the LARRC course. The provider must update their account in eLicense before offering or advertising the LARRC course. The Agency will post this information on its website under the certified continuing education provider information. (OAR 863-020-0030)
- Certified continuing education providers must use the attached course outline and learning objectives to develop their 2016-2017 LARRC course.
- On all documents relating to the course, including course offerings and certificates of attendance, the name of the course must be: “Law and Rule Required Course 2016-2017.”
- The course must be a minimum of three hours in length. A continuing education provider or course instructor may allow a break of no more than 10 minutes as part of each hour of instruction.
- The course may be offered in any format, including classroom or on the internet.
- A qualified course instructor must teach the course. Certified continuing education providers must ensure the instructor is qualified to teach the course. A provider must also ensure that the instructor completes and signs a form that includes the instructor’s qualifications. The “Continuing Education Instructor Qualifications Form” is found on the Agency’s website, www.rea.state.or.us, under “Forms and Publications,” then click on “Continuing Education Forms for Educators.” The Agency does not certify instructors.

Although it is not required, certified continuing education providers should consider asking participants to submit a course and instructor evaluation.

Required Course Subjects

The LARRC course has four required course subjects:

- Clients’ Trust Accounts
- Advertising under OAR 863-015-0125
- Common areas of non-compliance by licensees
- Initial Agency Disclosure Pamphlet under OAR 863-015-0215

Learning objectives are provided for the required topics. The required topics have been selected based on input from the Oregon Real Estate Agency staff and stakeholders. Topics covered under this section are areas of new law that the Agency has jurisdiction over or areas where the Agency finds that licensees commonly make errors. The overall goal of the course is to inform licensees of new requirements and avoid non-compliance issues that can jeopardize their license.

Board-Approved LARRC Additional Course Subjects

In addition to the required course subjects, a certified continuing education provider may include as part of the three-hour course:

- Specific Board-approved 2015 Oregon legislation
- One or more Board-approved additional course topics.

The provider must develop learning objectives for Board-approved LARRC additional course subjects. The details on these course subjects are listed below under “Board-Approved LARRC Additional Course Subjects.”
Course Subject: Clients’ Trust Accounts

General:
- Instructor must review at least one recent administrative action relating to clients’ trust accounts. Recent administrative actions can be found in issues of the Oregon Real Estate News-Journal.
- Instructor must spend at least 20 minutes on this topic. (Note to instructor: See the February 2015 issue of the Oregon Real Estate News-Journal for more information.)

Learning Objectives: Upon completion of this course subject the licensee will be able to:

- Define “trust funds” under ORS 696.241 as money belonging to others that is received or handled by a licensed real estate property manager or principal real estate broker in the course of conducting professional real estate activity and in the real estate licensee’s fiduciary capacity.
- Describe who can open a clients’ trust account and who must open a clients’ trust account.
- Explain that clients’ trust accounts must be opened and maintained in the state of Oregon.
- Explain that a licensed real estate property manager or a principal real estate broker who engages in the management of rental real estate must open and maintain at least one clients’ trust account.
- Explain that a principal broker or licensed real estate property manager must notify the Agency using eLicense within 10 business days if a clients’ trust account is opened, closed or transferred.
- Describe the process for opening and closing a clients’ trust account through eLicense.
- Describe how to correctly name a CTA.
- Explain the requirements of the Notice of Clients’ Trust Account form, including who must sign it and record keeping requirements.
- Explain who may be a signer on a clients’ trust account.
- Describe record keeping requirements for clients’ trust account records.
- Describe the type of funds that may be held in a clients’ trust account.
- Describe what is required in order to disburse funds from a clients’ trust account.
- Describe the requirements to transfer funds from an owners’ ledger account to one or more different owners’ ledger accounts.
- Describe the components of a 3-way reconciliation and how often a reconciliation must be performed.
- Explain that the Agency conducts random audits of clients’ trust account reconciliations and violations may result in administrative action including license revocation.
Course Subject: Advertising

Advertising requirements under OAR 863-015-0125.

Learning Objectives: Upon completion of this course subject the licensee will be able to:

- Explain the terms "advertising" and "advertisement" includes all forms of representation, promotion and solicitation disseminated in any manner and by any means for any purpose related to professional real estate activity, including, without limitation, advertising by mail; telephone, cellular telephone, and telephonic advertising; the Internet, E-mail, electronic bulletin board and other similar electronic systems; and business cards, signs, lawn signs, and billboards.
- Explain the use of a “common derivative” of a licensee’s first name and the licensee’s licensed last name when advertising and describe how this relates to nick names (Note: All licensees must be licensed using their legal name.)
- Explain that the licensed name or registered business name of the principal real estate broker or property manager must be prominently displayed, immediately noticeable, and conspicuous in all advertising including social media and internet advertising.
- Explain the record keeping requirements of all advertising.
- Explain the requirements for advertising in electronic media and by electronic communication, including but not limited to Internet, web pages, e-mail, e-mail discussion groups, blogs, and electronic bulletin boards.
- Explain that a licensee may use the term “team” or “group” to advertising if:
  - The use of the term does not constitute the unlawful use of a trade name and is not deceptively similar to a name under which any other person is lawfully doing business;
  - The team or group includes at least one real estate licensee;
  - The licensee members of the team or group are associated with the same principal broker or property manager;
  - The licensee members of the team or group use each licensee’s licensed name (Note: Use either the licensee’s licensed name or a common derivative of the licensee’s first name and the licensee’s licensed last name);
  - If any non-licensed individuals are named in the advertising, the advertising must clearly state which individuals are real estate licensees and which ones are not; and
  - The advertising complies with all other applicable provisions of ORS chapter 696 and its implementing rules, including review and approval requirements.

Course Subject: Common areas of non-compliance with laws and rules regarding licensing and continuing education

The learning objectives in this course subject list the most common areas of non-compliance on licensing and continuing education issues under ORS 696 and OAR 863, by real estate licensees.

Learning Objectives: Upon completion of this course subject the licensee will be able to:

- Explain that to renew an active license, a real estate licensee must complete a minimum of 30 hours of real estate continuing education courses that are eligible for credit during the two years preceding the renewal, and that the 30 hours must include:
  - At least three hours in a course on recent changes in real estate rule and law (LARRC) approved by the Real Estate Board; and
  - If a broker licensee is renewing an active license for the first time, an advanced course in real estate practices approved by the Agency must be completed. The 27-hour course is titled “Broker Advanced Practices.”
If a property manager licensee is renewing an active license for the first time, an advanced course in property management approved by the Agency must be completed. The 27-hour course is titled “Property Manager Advanced Practices.”

- Explain that a licensee must maintain the licensee’s own records of continuing education through eLicense on the Real Estate Agency’s website. Information the licensee must provide includes:
  - The date, name and length of time of each course attended;
  - The name of the real estate continuing education provider that offered the course;
  - The name of the instructor who taught the course; and
  - Any other information that the agency requires by rule.

- Explain that active licensees may record continuing education hours in eLicense any time during their renewal period or input continuing education hours at time of renewal.

- Explain that a licensee must maintain all certificates of completion that the licensee received from a continuing education provider.

- Explain that a licensee may only take continuing education from a certified continuing education provider.

- Explain that a list of continuing education providers is available on the Real Estate Agency’s website. (Note to instructor: The Agency is launching a new website soon, so verify how to access the list to ensure proper instructions are given to licensees.)

- Explain that the Agency does not have an exception process for accepting a CE course that may be approved for license renewal in another state (e.g. California) or for another license type (e.g. Oregon appraiser license). (Note: The licensee must contact the other state or licensing entity to see if they have an exception process.)

- Explain that a licensee may only renew a license online. A licensee must complete a license renewal application and pay the fee using an online application process, which is available on the Agency’s website.

- Explain that a real estate licensee’s license expires if a licensee fails to renew the license on or before the license expiration date and that a real estate licensee may not engage in any professional real estate activity after a license expires. An expired license retains the status of expired during the expiration period.

- Explain that if an active license expires, and then is renewed late, the license becomes unassociated from the principal broker, property manager or registered business name. The principal broker or property manager must transfer the license back to the principal broker or property manager in eLicense for the license to be active. An expired license renewed by completing the renewal procedures expires two years from the date of the original expiration date.

- Explain that under OAR 863-014-0062, each licensee must maintain on file with the Agency a current mailing address and email address. The licensee must notify the Agency within 10 calendar days of a change to a mailing or email address. Non-compliance with this rule may result in an administrative action.

- Explain that the Real Estate Agency sends renewal and most other notifications to licensees by e-mail only. Licensees are responsible for managing their email address changes and other information using eLicense.

- Demonstrate how to stay current on law changes that affect their license. It is imperative that licensees stay current on law changes that may affect their license, such as record keeping requirements for continuing education. A licensee is responsible for being informed on changes to laws, rules and licensing procedures. The Real Estate Agency offers e-mail subscription services for the Oregon Real Estate News-Journal and the Educators’ Informational Updates which keeps licensees and interested members of the public informed by the Real Estate Agency. A person may subscribe to these services at this site: www.rea.state.or.us/REA/e-mail_subscriptions.shtml
Course Subject: Initial Agency Disclosure Pamphlet Rule under OAR 863-015-0215
Sample Initial Agency Disclosure Pamphlet

Learning Objectives: Upon completion of this course subject the licensee will be able to:

- Define that “first contact” means at the time the agent has sufficient contact information about a person to be able to provide an initial agency disclosure pamphlet to that person. Contact with a person includes, but is not limited to contacts in person, by telephone, over the Internet, by electronic mail, or by similar methods.
- Explain the ways the Initial Agency Disclosure Pamphlet can be provided to a potential client.
- Explain that the licensee may either use the Agency’s sample pamphlet or create their own that meets the requirements of the rule.
Optional Course Subjects

In addition to the required course subjects listed above, a certified continuing education provider may include the following subjects:

- Specific 2015 Oregon legislation as part of the three-hour course
- One or more Board-approved additional course subjects as part of the three-hour course.

2015 Oregon Legislation

These course subjects are optional. A certified continuing education provider may choose to cover any of the following subjects. The continuing education provider must develop learning objectives for each subject offered.

- **Senate Bill 252.** Exempts Department of Veteran’s Affairs from the requirement to hold a resolution conference prior to foreclosure.
- **Senate Bill 367.** Makes purchaser at execution sale of real property in planned community or condominium community solely liable for assessments imposed against real property during redemption period. Requires claimant who redeems real property sold at execution sale to repay assessments, with interest, that are imposed during redemption period and paid by purchaser.
- **Senate Bill 368.** Requires sheriff to deliver proceeds of execution sale to court administrator. Permits judgment creditor in foreclosure suit to bid for foreclosed property at foreclosure sale by paying, among other fees and costs, amount that exceeds full amount of money award if judgment includes money award, or amount declared in judgment for judgment that does not include money award. Specifies that judgment creditor's bid for foreclosed property may not exceed full amount owing on money award in judgment that includes money award or amount declared in judgment for judgment that does not include money award. Provides that judgment to foreclose residential trust deed may not include money award for amount of debt against grantor, successor in interest or another person obligated on note, bond or other obligation in specified circumstances. Requires judgment in suit to foreclose lien to include declaration of amount of debt lien secures and, if plaintiff requests in complaint, money award against lien debtor. Declares emergency, effective on passage.
- **Senate Bill 390.** Modifies provisions affecting landlord and tenant relations. Allows fees to be charged for service and companion animal clean up.
- **Senate Bill 402.** Permits Affiant in Small Estate to open an account to pay bills.
- **Senate Bill 879.** Exempts individual from requirement to obtain mortgage loan originator's license if individual as seller during any 12-month period offers or negotiates terms for not more than three residential mortgage loans that are secured by dwelling unit that individual owns or that limited liability company of which individual is member owns and that did not serve as individual's residence if membership in limited liability company consists only of individual and individual's relatives, if individual and limited liability company do not advertise that limited liability company engages in business of making residential mortgage loans and if individual complies with other requirements. Exempts from requirement to obtain mortgage loan originator's license to perform activities of mortgage loan originator attorney who negotiates terms of residential mortgage loan in attorney's representation of client that buys or sells dwelling unit from requirement to obtain mortgage loan originator's license in order to perform activities of mortgage loan originator.
- **House Bill 2083.** Affects 5 year time from purposes of establishing homestead.
- **House Bill 2127.** Requires filing of certificate of taxes paid when exempt property conveyed to non-exempt status.
- **House Bill 2463.** Authorizes State Lands to seize abandoned/derelict structures on state owned submerged and submersible land.
- **House Bill 2532.** Requires lender, or agent or affiliate of lender, in any advertisement or communication intended as inducement to apply for or enter into reverse mortgage to include

- **House Bill 2585.** Modifies authority granted to owner of lot in planned community or unit in condominium to install and use electric vehicle charging station for personal, noncommercial use. Declares charging station to be personal property of owner of lot or unit unless different result is negotiated between parties. Declares emergency, effective on passage.
- **House Bill 2599.** Prohibits public utility from terminating electric or natural gas service to certain customers under certain circumstances.
- **House Bill 2629.** Requires owners of rental property subject to federal rural rental housing loans to provide at least one year’s notice of date of maturity of loans to tenants, Housing and Community Services Department, housing authorities and local governments. Requires owners of rental property subject to federal rural rental housing loans to provide at least one year’s notice of date of maturity of loans to tenants, Housing and Community Services Department, housing authorities and local governments. Provides that owners’ failure to provide notice entitles tenants to continue residing on rental properties for up to one year after date of maturity of loans without increase in rent.
- **House Bill 3244.** Provides that borrower or borrower’s agent may rely on lender’s payoff statement and, if paid in accordance with statement prevents lien from continuing to attach to property.
- **House Bill 3488.** Exempts specified instruments that condition transfer of fee simple interest in real property from prohibition on fee, commission or other payment to declarant or other person upon transfer of interest in real property. Requires for exemption that proceeds of fee, commission or payment directly benefit property subject to instrument or support activities that directly benefit residents of property subject to instrument and that certain entities execute instrument.

### Additional Course Subjects Approved by the Real Estate Board

These course subjects are optional. A certified continuing education provider may choose to cover any of the following subjects. The continuing education provider must develop learning objectives for each subject offered.

- Measure 91: Marijuana in Oregon and how it affects real estate
- TRID (TILA/RESPA Integrated Disclosures)
- eLicense (the Agency’s online electronic licensing program)
  - Adding or removing clients trust accounts
  - Inactivating your license
  - Printing your license online
  - Changing your address phone
  - Changing your legal name
  - Transferring in and inactivating a licensee
  - Renewing your license
- Review of recent administrative actions taken against licensees found in the *Oregon Real Estate News Journal*.
- Any division of Oregon Administrative Rules, chapter 863.
- Difference between statutes and rules.
- Handling funds on behalf of others, such as promissory notes, requirements to send earnest money to escrow, and refunds of earnest money from escrow.
- Role of the Oregon Real Estate Agency, including 1) education and examination for brokers,
principal brokers and property managers; 2) licensing and regulation of real estate principal brokers, brokers, property managers and escrow and escrow agents; 3) regulation of condominiums, timeshare and campground registrations, real estate marketing organizations, out of state subdivisions, certain manufactured dwelling subdivisions; and 4) investigation of complaints against licensees and escrow agents, and unlicensed professional real estate.

**Instructions for Continuing Education Providers:** Continuing education providers are required to present the required course subjects and learning objectives. A provider may also present the Board-approved LARRC additional course subjects to create a course that provides the required subjects and has additional course subjects that focus on a particular interest of certain licensees.

For example, a certified continuing education provider could create a LARRC course for property managers that might include:

- The required CTA topics (including more detailed information on CTA’s pertaining to property managers)
- The required advertising topics
- The required common areas of non-compliance by licensees
- The required initial agency disclosure pamphlet topic
- The Board-approved additional course subject covering 2015 legislation that impacts landlord-tenant laws
- The Board-approved additional course subject covering a review of OAR Chapter 863, Division 25 for property managers

Or a certified continuing education provider could develop a LARRC course for principal brokers that might include:

- The required CTA topics (including a more detailed information on CTA’s pertaining to principal brokers)
- The required advertising topics
- The required common areas of non-compliance by licensees
- The required initial agency disclosure pamphlet topic
- Detailed information on registered business names (RBNs)
- Information on subsidiary and affiliate registered business names under ORS 696 and OAR 863
- Supervision of licensees, including CE requirements for licensees renewing active for the first time.
- eLicense (the Agency’s online electronic licensing program)
  - Adding or removing clients trust accounts
  - Inactivating your license
  - Printing your license online
  - Changing your address phone
  - Changing your legal name
  - Transferring in and inactivating a licensee
  - Renewing your license

**IMPORTANT:** If a provider chooses to create a course tailored to a specific licensee or professional real estate activity, the certificate issued to the licensee must follow requirements under OAR Chapter 863, Division 20 by listing the title of the course and the eligible course topic as “Law and Rule Required Course 2016-2017.”
ADMINISTRATIVE ACTIONS
Reported
July 17, 2015 through September 22, 2015

REVOCATIONS

Jordan, Jeremy (Beaverton) Broker 200008175 Default Order dated, July 22, 2015 issuing a Revocation

Smith, Kenneth (Sherwood) Principal Broker 200008177 Default Order dated, July 22, 2015 issuing a Revocation

Anderson, Angela (Canby) Broker 200707125 Default Order dated, July 22, 2015 issuing a Revocation

Halvorson, John (Rancho Santa Margarita, CA) Principal Broker 200701035 Final Order after Hearing dated, August 5, 2015 issuing a Revocation

SUSPENSIONS

REPRIMANDS

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

Hyde, Kelly (Klamath Falls) Principal Broker 201107019, Stipulated order dated August 12, 2015, issuing a $2,500 Civil Penalty for Unlicensed Activity
REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of

JEREMY J. JORDAN ORDER ON DEFAULT

1.

1.1 On June 10, 2015, the Real Estate Commissioner issued, by certified mail, a notice of intent to revoke the real estate principal broker license of Jeremy J. Jordan (Jordan). The Real Estate Agency (OREA) sent the notice of intent to Jordan's last known address of record with the OREA. The notice of intent was also mailed to Jordan by regular first class mail in a handwritten envelope.

1.2 The certified mailing of the notice of intent and the first class mailing were sent to Jordan at, 19728 SW Sandra Ln, Beaverton, OR 97006. No mailings have been returned to OREA. On June 15, 2015, OREA received return receipt for the certified mailing which was signed for on June 12, 2015. The name of who signed for the certified mailing was not legible.

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

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

2.

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

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

2.2 Jordan’s last known address of record with OREA was 19728 SW Sandra Ln, Beaverton, OR 97006.

2.3 A certified mailing of the notice of intent was mailed to Jordan at his last known address of record on June 10, 2015.

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

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

2.6 Pursuant to ORS 696.775, the expiration of Jordan’s license does not prohibit the Commissioner from proceeding with further action.

3. FINDINGS OF FACT &

CONCLUSIONS OF LAW

3.1 At the time of the incidents listed below, Jordan’s license was associated with Uptown Real Estate as a principal broker. Most recently, Jordan was associated with Keller Williams Realty Professionals from March 31, 2011 until February 5, 2014. Jordan’s real estate license has been inactive since February 5, 2014. Jordan’s license expired on July 1, 2015.

3.2 On April 13, 2011, OREA was notified that Jordan had been indicted for several counts of wire fraud in U.S. District Court Case #3:11-cr-00160-HZ.

3.3 OREA chose to wait for the criminal case outcomes before investigating the matter further.

3.4 On December 10, 2013, Jordan was convicted of 4 counts of wire fraud and sentenced to 33 months incarceration, 3 years supervised release, and a $100.00 special assessment. Jordan did not report the criminal conviction to the OREA.

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On July 31, 2014, OREA began investigating the facts surrounding the criminal convictions.

The wire fraud conviction involved Jordan and his business partner, Kenneth J. Smith (Smith). Through their actions, Jordan and Smith would purchase and refinance residential properties. Two different types of transactions were involved:

- **Transaction Type 1:** Jordan and/or Smith would approach distressed homeowners who were on the verge of losing their homes to foreclosure. Jordan and Smith would offer to purchase the homes on a lease back agreement, which would allow the distressed homeowners to remain in their home while paying rent. A clause in the contract would allow the distressed homeowners to purchase the property back at some future date. The agreements were not submitted to the appropriate county for recording.

- **Transaction Type 2:** Jordan and/or Smith obtained loans by falsely inflating their income. The loans were not disclosed to the distressed homeowner, who had a leasehold interest in the property. When Jordan and/or Smith obtained the loans, they falsely stated the nature of the transaction to the lender by failing to disclose the leasehold interest of the distressed homeowner.

**Violation:** By failing to disclose the criminal conviction to OREA, Jordan violated ORS 696.301(3) (2013 Edition), which incorporates OAR 863-015-0175(1)(a) (4-1-2013 Edition), which requires a real estate licensee to notify the commissioner of any criminal conviction felony or misdemeanor, including a “no contest” plea or bail forfeiture.

**Violation:** By obtaining the loans using false and incomplete information, Jordan violated ORS 696.301(14) (2005 Edition), which states a licensee may be subject to discipline if they have committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity.

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3.7 In the indictment, the following facts were described.

- On or about February 27, 2006, and continuing at least through April 18, 2006, Jordan, Smith and his wife, Bonnie Smith (B. Smith) submitted a loan application and related documents, on Smith and B. Smith’s behalf for the purchase of residential property located at 17410 SW Parrett Mountain Road, Sherwood, Oregon (Parrett Mountain Property). The documents were submitted to First Franklin Financial Corp. The loan application and related documents falsely stated Smith and B. Smith’s income.
  
  o On April 18, 2006, a wire transfer in the amount of $1,213,714.55 was issued from First Franklin to Fidelity National (US Bank) for the Parrett Mountain Property.

- On or about April 20, 2006, continuing through at least June 12, 2006, Jordan, Smith, and B. Smith submitted loan documents to First Horizon Home Loan, on behalf of Smith, for the refinancing of the Parrett Mountain Property, for the amount of $1,920,000.00. The loan application and documents falsely stated Smith’s income.
  
  o On June 12, 2006, a wire transfer in the amount of $1,909,594.97 was issued from First Horizon Home Loan to Fidelity National (Washington Mutual) for the Parrett Mountain Property.

- In February 2006, Jordan, Smith, and B. Smith entered into a contract with J.K., owner of 35132 SE Hurlburt Road Corbett, Oregon (Hurlburt Road Property). J.K. transferred the Hurlburt Road Property to B. Smith and gave a promissory note and deed of trust in the amount of $200,000.00 to the benefit of an entity owned and controlled by Jordan and Smith. Jordan, Smith, and B. Smith, agreed to allow J.K. to live on the Hurlburt Road Property for a specific period of time in exchange for rent. At the end of the lease period, J.K. would be permitted to purchase the property from Smith for an agreed upon sum. On or about February 1, 2006, through at least February 5, 2006, Jordan, Smith, and B. Smith submitted a loan application and loan documents to GreenPoint Mortgage, on behalf of B. Smith, for the purchase of the Hurlburt Road Property from J.K., for a
price of $350,000.00. The loan application falsely stated B. Smith's income, and
failed to disclose that J.K. had a financial and legal interest in the property.

- On or around July 5, 2006, through December 5, 2006, Jordan, Smith, and B.
  Smith submitted a loan application to Lender's Direct Capital, on behalf of B.
  Smith, for a loan in the amount of $396,000.00 for the refinance of residential
  property located at the Hurlburt Road Property. The documents submitted
  contained falsely stated income for B. Smith, and failed to disclose that J.K. had
  a financial and legal interest in the Hurlburt Road Property.

- Around February 2006, Jordan, Smith, and B. Smith entered into a contract with
  M.M., owner of 7815 N. Peninsular Avenue, Portland, Oregon (Peninsular
  Property) where M.M. agreed to give a promissory note and deed of trust in the
  amount of $82,000.00 to the benefit of Jordan, and then transfer the Peninsular
  Property to Jordan, Smith, and B. Smith. M.M. was allowed to live on the
  property for a specified period of time in exchange for rent and would be
  permitted to purchase the property from Smith for an agreed upon sum. Starting
  around February 16, 2006, through April 21, 2006, Jordan, Smith, and B. Smith
  submitted loan documents to Axis Mortgage, on behalf of Smith, for the purchase
  of the Peninsular Property from M.M. for a price of $245,000.00. The documents
  submitted included false incomes for Smith, and failed to disclose that M.M. had
  a financial and legal interest in the property.

  o On April 21, 2005, a wire transfer in the amount of $183,308.08 was
    issued from Baltimore Bank of Arizona to Fidelity National (Washington
    Mutual) in relation to the Peninsular Property.

  o On April 21, 2005, a wire transfer in the amount of $48,463.75 was issued
    from Baltimore Bank of AZ to Fidelity National (Washington Mutual) in
    relation to the Peninsular Property.

- Around January 2006, Jordan, Smith, and B. Smith entered into an agreement
  with D.H., owner of 4525 SE 70th Portland, Oregon (SE 70th Property). D.H.
  agreed to transfer the property to Smith, in turn, D.H. was allowed to live on the
  SE 70th Property for a specified period of time in exchange for rent and would be
  permitted to purchase the property back from Smith at a later date. Starting
around January 2006 continuing through at least February 17, 2006, Jordan, Smith, and B. Smith submitted a loan application on behalf of Smith to GreenPoint Mortgage Funding for the purchase of the SE 70th Property for a price of $223,000.00. The application and supporting documents contained false employment income for Smith, and failed to disclose that D.H. had a financial and legal interest in the property.

- Starting around May 2006, continuing at least through June 27, 2006, Jordan, Smith, and B. Smith submitted a loan application to GreenPoint Mortgage, on behalf of Jordan, for the refinancing of a mortgage on real property located at 2350 NE Cleveland Avenue, Gresham, Oregon (Cleveland Property), for a loan in the amount of $44,000.00. The loan documents contained false employment income for Jordan.
  - On June 27, 2006, a wire transfer in the amount of $43,705 was issued from North Folk Bank to Fidelity National (Washington Mutual).

3.8 OREA Investigator Philip Johnson (Johnson) was unable to interview Jordan due to his incarceration. However, on September 24, 2014, Johnson was able to interview Smith regarding the incidents.

3.9 In October 2003, Smith was involved in a life threatening automobile accident. Smith said because of this accident he was unable to participate in the daily work and be a producer in the business owned by him and Jordan. Smith and Jordan owned Smith and Jordan Real Estate, LLC dba Uptown Real Estate.

3.10 Smith said Jordan would negotiate the deals with the distressed homeowners and bring the paperwork for him to sign.

3.11 When asked about the loans, Smith said Jordan would come to him saying, we need to do this loan. Jordan also told Smith there is enough on the books to use the stated income, at this level for you to qualify for the loan, and I just need you to sign these documents. Smith said he trusted that Jordan was making decisions for the company that made sense.

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3.12 A review of Jordan’s real estate license record showed that his license was sanctioned after the investigation of three previous cases. All three cases contained similar facts regarding Jordan purchasing homes from homeowners on leaseback agreements. As a result from those investigations, OREA issued a Stipulated Final Order on January 19, 2010 where Jordan’s license was reprimanded with conditions. His principal broker license was limited to a broker license and required him to be supervised by a principal broker for five years. Jordan was also required to provide quarterly reports to OREA on payments relating to a civil judgement against him.

3.13 A review of the licensing records shows that Jordan was complying with the limited licensing requirements, with the most recent required report submitted for the 4th quarter of 2013, prior to Jordan’s incarceration.

**Violation:** In December 2013, Jordan was convicted of four counts of felony wire fraud. This criminal activity is substantially related to his trustworthiness or competence to engage in professional real estate activity. ORS 696.301(11) (2005 Edition) states OREA can take disciplinary action against a licensee who has been convicted of a felony or misdemeanor substantially related to the licensee’s trustworthiness or competence to engage in professional real estate activity.
4.

4.1 The above violations are grounds for discipline pursuant to ORS 696.301. Based on these violations, OREA is revoking Jordan's real estate principal broker license. A revocation is appropriate under ORS 696.396(2)(c)(C), which states OREA may revoke a real estate license if the material facts establish a violation of a ground for discipline under ORS 696.301 that exhibits dishonesty or fraudulent conduct.

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

ORDER

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

Dated this 7th day of July, 2015.

OREGON REAL ESTATE AGENCY

[Signature]

GENE BENTLEY
Real Estate Commissioner

DATE of service: 7-22-2015

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

ORDER ON DEFAULT

KENNETH J. SMITH

1.

1.1 On June 10, 2015, the Real Estate Commissioner issued, by certified mail, a notice of intent to revoke the real estate principal broker license of Kenneth J. Smith (Smith). The Real Estate Agency (OREA) sent the notice of intent to Smith’s last known address of record with the OREA. The notice of intent was also mailed to Smith by regular first class mail in a handwritten envelope.

1.2 The certified mailing of the notice of intent and the first class mailing were sent to Smith at 16473 SW Wildlife Have Ct, Sherwood, OR 97140. OREA received the first class mailing back marked, “RETURN TO SENDER NOT DELIVERABLE AS ADDRESSED UNABLE TO FORWARD.” On June 18, 2015, OREA received the return receipt for the certified mailing of the notice of intent. The receipt was signed by Ken Smith.

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

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

2.

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

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

2.2 Smith's last known address of record with OREA was 16473 SW Wildlife Have
t, Sherwood, OR 97140.

2.3 A certified mailing of the notice of intent was mailed to Smith at his last known
address of record on June 10, 2015.

2.4 The mailing in the handwritten envelope has been returned to OREA. However,
the certified mailing receipt shows that Ken Smith received and signed the certified mailing of
the notice of intent.

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

2.6 Pursuant to ORS 696.775, the expiration of Smith's license does not prohibit the
Commissioner from proceeding with further action.

3.
FINDINGS OF FACT
&
CONCLUSIONS OF LAW

3.1 At the time of the incidents listed below, Smith's license was associated with
Uptown Real Estate as a principal broker. Smith's license expired on July 1, 2012, and his
principal broker license has now lapsed.

3.2 On April 13, 2011, OREA was notified that Smith had been indicted for several
counts of wire fraud in U.S. District Court Case #3:11-cr-00160-HZ.

3.3 OREA chose to wait for the criminal case outcomes before investigating the
matter further.

3.4 On December 10, 2013, Smith was convicted of 2 counts of wire fraud and
sentenced to 60 months of probation and to pay restitution in the amount of $175,769.00.
Smith did not report the criminal conviction to the OREA.

3.5 On July 31, 2014, OREA began investigating the facts surrounding the criminal
convictions.

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3.6 The wire fraud conviction involved Smith and his business partner, Jeremy Jordan (Jordan). Through their actions, Smith and Jordan would purchase and refinance residential properties. Two different types of transactions were involved:

- **Transaction 1:** Smith and/or Jordan would approach distressed homeowners who were on the verge of losing their homes to foreclosure. Smith and Jordan would offer to purchase the homes on a lease back agreement, which would allow the distressed homeowners to remain in their home while paying rent. A clause in the contract would allow the distressed homeowners to purchase the property back at some future date. The agreements were not submitted to the appropriate county for recording.

- **Transaction 2:** Smith and/or Jordan obtained the loans by falsely inflating their income. The loans were not disclosed to the distressed homeowner, who had a leasehold interest in the property. When Smith and/or Jordan obtained the loans, they falsely stated the nature of the transaction to the lender by failing to disclose the leasehold interest of the distressed homeowner.

**Violation:** By failing to disclose the criminal conviction to OREA, Smith violated ORS 696.301(3) (2013 Edition), which incorporates OAR 863-015-0175(1)(a) (4-1-2013 Edition), which requires a real estate licensee to notify the commissioner of any criminal conviction felony or misdemeanor, including a “no contest” plea or bail forfeiture.

**Violation:** By obtaining the loans using false and incomplete information, Smith violated ORS 696.301(14) (2005 Edition), which states a licensee may be subject to discipline if they have committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity.
3.7 In the indictment, the following facts were described.

- On or about February 27, 2006, and continuing at least through April 18, 2006, Jordan, Smith and his wife, Bonnie Smith (B. Smith) submitted a loan application and related documents, on Smith and B. Smith's behalf for the purchase of residential property located at 17410 SW Parrett Mountain Road, Sherwood, Oregon (Parrett Mountain Property). The documents were submitted to First Franklin Financial Corp. The loan application and related documents falsely stated Smith and B. Smith's income.
  - On April 18, 2006, a wire transfer in the amount of $1,213,714.55 was issued from First Franklin to Fidelity National (US Bank) for the Parrett Mountain Property.
- On or about April 20, 2006, continuing through at least June 12, 2006, Jordan, Smith, and B. Smith submitted loan documents to First Horizon Home Loan, on behalf of Smith, for the refinancing of the Parrett Mountain Property, for the amount of $1,920,000.00. The loan application and documents falsely stated Smith's income.
  - On June 12, 2006, a wire transfer in the amount of $1,909,594.97 was issued from First Horizon Home Loan to Fidelity National (Washington Mutual) for the Parrett Mountain Property.
- In February 2006, Jordan, Smith, and B. Smith entered into a contract with J.K., owner of 35132 SE Hurlbut Road Corbett, Oregon (Hurlbut Road Property). J.K. transferred the Hurlbut Road Property to B. Smith and gave a promissory note and deed of trust in the amount of $200,000.00 to the benefit of an entity owned and controlled by Jordan and Smith. Jordan, Smith, and B. Smith, agreed to allow J.K. to live on the Hurlbut Road Property for a specific period of time in exchange for rent. At the end of the lease, J.K would be permitted to purchase the property from Smith for an agreed upon sum. On or about February 1, 2006, through at least February 5, 2006, Jordan, Smith, and B. Smith submitted a loan application and loan documents to GreenPoint Mortgage, on behalf of B. Smith, for the purchase of the Hurlbut Road Property from J.K., for a price of
$350,000.00. The loan application falsely stated B. Smith's income, and failed to disclose that J.K. had a financial and legal interest in the property.

- On or around July 5, 2006 through December 5, 2006, Jordan, Smith, and B. Smith submitted a loan application to Lender's Direct Capital, on behalf of B. Smith, for a loan in the amount of $396,000.00 for the refinance of residential property located at the Hurlburt Road Property. The documents submitted contained falsely stated income for B. Smith, and failed to disclose that J.K. had a financial and legal interest in the Hurlburt Road Property.

- Around February 2006, Jordan, Smith, and B. Smith entered into a contract with M.M., owner of 7815 N. Peninsular Avenue, Portland, Oregon (Peninsular Property) where M.M. agreed to give a promissory note and deed of trust in the amount of $82,000.00 to the benefit of Jordan, and then transfer the Peninsular Property to Jordan, Smith, and B. Smith. M.M. was allowed to live on the property for a specified period of time in exchange for rent and would be permitted to purchase the property from Smith for an agreed upon sum. Starting around February 16, 2006, through April 21, 2006, Jordan, Smith, and B. Smith submitted loan documents to Axis Mortgage, on behalf of Smith, for the purchase property of Peninsular Property from M.M. for a price of $245,000.00. The documents submitted included false incomes for Smith, and failed to disclose that M.M. had a financial and legal interest in the property.
  - On April 21, 2005, a wire transfer in the amount of $183,308.08 was issued from Baltimore Bank of Arizona to Fidelity National (Washington Mutual) in relation to the Peninsular Property.
  - On April 21, 2005, a wire transfer in the amount of $48,463.75 was issued from Baltimore Bank of AZ to Fidelity National (Washington Mutual) in relation to the Peninsular Property.

- Around January 2006, Jordan, Smith, and B. Smith entered into an agreement with D.H., owner of 4525 SE 70th Portland, Oregon (SE 70th Property). D.H. agreed to transfer the property to Smith, in turn, D.H. was allowed to live on the SE 70th Property for a specified period of time in exchange for rent and would be
permitted to purchase the property back from Smith at a later date. Starting
around January 2006 continuing through at least February 17, 2006, Jordan,
Smith, and B. Smith submitted a loan application on behalf of Smith to
GreenPoint Mortgage Funding for the purchase of the SE 70th Property for a
price of $223,000.00. The application and supporting documents contained false
employment income for Smith, and failed to disclose that D.H. had a financial
and legal interest in the property.
• Starting around May 2006, continuing at least through June 27, 2006, Jordan,
Smith, and B. Smith submitted a loan application to GreenPoint Mortgage, on
behalf of Jordan, for the refinancing of a mortgage on real property located at
2350 NE Cleveland Avenue, Gresham, Oregon (Cleveland Property), for a loan
in the amount of $44,000.00. The loan documents contained false employment
income for Jordan.
  o On June 27, 2006, a wire transfer in the amount of $43,705 was issued
    from North Folk Bank to Fidelity National (Washington Mutual).
3.8 On September 24, 2014, OREA Investigator Philip Johnson (Johnson)
interviewed Smith regarding the incidents. Smith explained back in October 2003, he was
involved in a life threatening automobile accident. Smith said because of this accident he was
unable to participate in the daily work and be a producer in the business owned by him and
Jordan. Smith and Jordan owned Smith and Jordan Real Estate, LLC dba Uptown Real Estate
(Uptown).
3.9 After his accident, Smith told Johnson that Jordan was responsible for all of the
professional real estate activity at Uptown.
3.10 Smith said he signed the loan packets because Jordan would say something to
the effect of, this is what we need to do to survive or stay alive.
3.11 Smith said he was not on the front lines, and never participated in activity with
the distressed homeowners’ foreclosures and lease agreements, other than sign documents
that Jordan presented to him. Smith said they were operating out of a position of fear of losing
everything they had worked for, and the refinancing and pooling of assets, that they had to put
back into the business, seemed like the right thing to do.
3.12 A review of Smith's real estate license showed that his license was sanctioned after a prior case investigation. An Order on Default, signed by the OREA Commissioner on March 31, 2010, suspended Smith's license for one year. In the order, it appears that Smith was involved in similar activity involving the purchasing of homes from homeowners on leaseback agreements.

3.13 On June 8, 2010, the OREA Commissioner signed a Modified Stipulated Order, which set aside the previously signed Order on Default and set the suspension period for Smith at one month.

Violation: In December 2013, Smith was convicted of two counts of wire fraud. This criminal activity is substantially related to his trustworthiness or competence to engage in professional real estate activity. ORS 696.301(11) (2005 Edition), states OREA can take disciplinary action against a licensee who has been convicted of a felony or misdemeanor substantially related to the licensee's trustworthiness or competence to engage in professional real estate activity.
4.

4.1 The above violations are grounds for discipline pursuant to ORS 696.301. Based on these violations, OREA is revoking Smith’s real estate principal broker license. A revocation is appropriate under ORS 696.396(2)(c)(C), which states OREA may revoke a real estate license if the material facts establish a violation of a ground for discipline under ORS 696.301 that exhibits dishonesty or fraudulent conduct.

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

ORDER

IT IS HEREBY ORDERED that Smith’s principal broker license is revoked.

Dated this __22__ day of __July__, 2015.

OREGON REAL ESTATE AGENCY

[Signature]

GENE BENTLEY
Real Estate Commissioner

DATE of service: 7-22-2015

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

ORDER ON DEFAULT

ANGELA MAE ANDERSON

1.

1.1 On June 16, 2015, the Real Estate Commissioner issued, by certified mail, a notice of intent to revoke the real estate broker license of Angela Mae Anderson (Anderson). The Real Estate Agency (OREA) sent the notice of intent to Anderson’s last known address of record with the OREA. The notice of intent was also mailed to Anderson by regular first class mail in a handwritten envelope.

1.2 The certified mailing of the notice of intent and the first class mailing were sent to Anderson at 461 SW 5th Avenue, Canby, OR 97013. No mailings have been returned to OREA.

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

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

2.

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

2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is properly served when deposited in the United States mail, registered or certified mail, addressed to the real estate licensee or to any other person having an interest in a proceeding before the Commissioner at the licensee’s or other person’s last known address of record with OREA.
2.2 Anderson's last known address of record with OREA was 461 SW 5th Avenue, Canby, OR 97013.

2.3 A certified mailing of the notice of intent was mailed to Anderson at her last known address of record on June 16, 2015. No mailings have been returned to OREA.

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

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

FINDINGS OF FACT
&
CONCLUSIONS OF LAW

3.

3.1 At all times mentioned herein, Anderson was licensed as a real estate broker doing business under the registered business name of Elite Realty LTD.

3.2 On October 31, 2013, Anderson renewed her real estate license. On her renewal form, she self-certified that she met the continuing education (CE) requirements and that her CE records were complete.

3.3 On November 1, 2013, OREA notified Anderson, that she had been selected for a CE audit. OREA requested she submit her CE record form and certificates.

3.4 Anderson submitted the requested CE records, by fax, on November 10, 2013. Anderson's CE certificates all appeared to be issued by OnlineEd.

3.5 Anderson's CE records were reviewed and OREA Program Analyst, Madeline Alvarado (Alvarado) sent an email to OnlineEd requesting verification of all courses completed between November 1, 2011 through October 31, 2013, for several licensees (names listed in the email) which included Anderson.

3.6 On November 27, 2013, Jeff Song (Song), School Director for OnlineEd emailed Alvarado regarding Anderson's LARRC certificate, noting: "It appears I should not have included Angela Anderson, since her course was finished November 5, 2013, which is after your November 1, 2013 cutoff date. She also completed a large number for courses in
October 2011 so I was confused as to why she was included, since she missed both audit dates. Let me know if I should correct anything.”

3.7 On December 2, 2013, Sorg emailed Alvarado a copy of the OnlineEd LARRC certificate for Anderson. Sorg noted, “You will notice the completion date is November 5, 2013, not October 22, 2013 like the one you questioned. In the certificate I attached, down at the bottom, just above the OnlineEd logo, you will see a hyperlink you can click to verify our database information that should be printed on the certificate. This information does not match the supplied certificate.” Sorg also noted, “I’ve also attached my Course Enrollment Notification, which shows her enrollment date for this course as November 5, 2013, which is after the completion date printed on the certificate. Ms. Anderson did complete a prior LARRC with us, but that completion date was October 27, 2011.”

Violation: By changing the date on the OnlineEd, Law and Rule Required Course (LARRC) CE certificate from November 5, 2013 to October 22, 2013, Anderson violated ORS 696.301(3) as it incorporates OAR 863-020-0010(2)(b) (4-1-2013) which states, to renew an active license, a real estate licensee must truthfully certify on an Agency-approved form that the licensee has completed the Board approved three-hour law and rule required course on recent changes in real estate rule and law. Additionally, Anderson committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or licensee to conduct professional real estate activity, in violation of ORS 696.301(14) (2013 Edition).

3.8 All of Anderson’s CE certificates were submitted to Sorg for review.

3.9 On November 27, 2013, Sorg, emailed Alvarado. Sorg wrote, “The verification links at the bottom of each certificate are the same and point to the 2013 LARRC certificate you originally questioned. There isn’t anyway this could happen on an authentic certificate and each verification link would be unique. Also, the Certificate Authentication Numbers at the bottom of the certificate, just above the verification link, are not legitimate. Finally, we have no enrollment notice or paid invoice matching her name or email address between her October 26, 2011 purchase for course she completed October 26 and 27, 2011 and her 2013 LARRC she enrolled in and completed on November 5, 2011.” (The correct date is November 5, 2013, not 2011.)

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Violation: By altering the 2013 OnlineEd LARRC certificate to produce false continuing education certificates for her renewal and submitting these false certificates to OREA, Anderson violated ORS 696.301(3) as it incorporates OAR 863-020-0010(2)(a) (4-1-2013 Edition), which requires for active license renewal, the licensee must truthfully certify on an Agency-approved form that the licensee has completed at least 27 hours of real estate continuing education during the two years proceeding renewal.

3.10 On January 7, 2014, OREA sent a letter to Anderson requesting that she send OREA proof that she met the CE requirements for her license renewal.

3.11 On January 22, 2014, Anderson sent OREA a letter about her CE certificates. Anderson stated her bank had notified her in December 2013 that her account had been compromised, and her card was deactivated and she would receive a new one. Anderson said she checked her account but did not notice any strange activity. Anderson stated she looked into the matter further regarding the company she took her continuing education from. She said the website was no longer accessible and the phone number from her bank related to the charge for the education was not a valid number. She implied that she took education from a company that she believed was OnlineEd, however, the bank charge was paid to “Education Online OR.”

3.12 After several attempts of contacting Anderson by phone and no response, on April 21, 2014, OREA Compliance Coordinator, Deanna Hewitt (Hewitt) emailed Anderson, notifying her that she had been assigned her file. The email addressed Sorg’s response to the OnlineEd certificates Anderson submitted to OREA. She was asked to explain how the “Education Online OR” company could have used the same verification link used on her certificates that matched the verification link on her OnlineEd 2013 LARRC certificate. Anderson was also asked to address, how the OnlineEd LARRC certificate could be dated October 22, 2013, when she had completed the course on November 5, 2013.

3.13 Anderson did not respond to Hewitt’s questions.

3.14 A settlement conference was held with Anderson on October 16, 2014. Anderson was asked to submit her October and November 2013 bank statements as a result from the settlement conference for further review. The request was to verify that Anderson had paid for an online CE course through “Education Online OR.”
3.15 On October 22, 2014, Anderson submitted her bank statements from account ending in #8810 at Clackamas Federal Credit Union (CFCU). On the October 2013 bank statement, there is an entry on October 23, 2013, for Education Online OR Aurora CO for $125.00.

3.16 The November 2013 bank statement for account ending in #8810, contained no charges relating to CE courses.

3.17 Hewitt reviewed the bank statements and found several inconsistencies. To verify the statements were correct, OREA issued a subpoena to CFCU requesting the October, and November 2013 statements for account ending in #8810.

3.18 On April 9, 2015, OREA received the requested documents from CFCU. The statements provided from the bank were completely different from the statements produced by Anderson. The October 2013 statement for account ending in #8810 provided by CFCU shows no transactions for this time period. Therefore, there was no charge for “Education Online OR Aurora Co” for $125.00.

3.19 The November 2013 statement for account ending in #8810 provided by CFCU shows no activity as well.

3.20 On April 27, 2015, OREA compliance specialist, Carolyn Kalb (Kalb) contacted Alicia Finch (Finch), Risk Manager for Clackamas Federal Community Union, to ask if she would review the bank statements submitted by Anderson to help explain the discrepancies between the two sets of statements.

3.21 On April 27, 2015, Kalb emailed Finch the statements that were provided to OREA by Anderson. That same day, Kalb received a phone call from Finch. Finch had reviewed the statements and said they were not related to the accounts held by Anderson at CFCU. Finch said she could not find any activity matching the activity provided on the statements from Anderson. Finch said the statements that Anderson provided to OREA were not issued by CFCU.

Violation: By Anderson certifying on her renewal application, that she met the CE requirements for renewal, when Anderson had not, she committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or licensee to conduct professional real estate activity, in violation of ORS 696.301(14) (2013 Edition).
4.

4.1 The above violations are grounds for discipline pursuant to ORS 696.301. Based on these violations, OREA is revoking Anderson's broker license. Based on these violations, a revocation of Anderson's real estate license is appropriate for violations of ORS 696.301(14) (2013 Editions). A revocation is appropriate under ORS 696.396(2)(c)(C). According to ORS 696.396, OREA may revoke a real estate license if the material facts establish a violation of a ground for discipline under ORS 696.301 that exhibits dishonesty or fraudulent conduct.

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

ORDER

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

Dated this 22nd day of July, 2015.

OREGON REAL ESTATE AGENCY

[Signature]

GENE BENTLEY
Real Estate Commissioner

DATE of service: 7-22-2015

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.
BEFORE THE
REAL ESTATE AGENCY
STATE OF OREGON

IN THE MATTER OF:

JOHN OLAf HALVORSON,
Respondent

) FINAL ORDER
  )
  ) OAH Case No. 1403962
  ) Agency Case No. 2013-90

This matter came before the Real Estate Agency to consider the Proposed Order issued by Administrative Law Judge (ALJ) Alison Greene Webster on June 25, 2015. Respondent filed exceptions to the Proposed Order on July 15, 2015.

The exceptions were not filed timely, however, even if the exceptions were considered timely, the Commissioner did not find them persuasive. After considering the records and the file herein, the Agency adopts the attached and incorporated Proposed Order as the Final Order.

IT IS HEREBY ORDERED that the principal real estate broker license of John Olaf Halverson is revoked, with said revocation to be effective the date of this order.

Dated this 8th day of August 2015.

[Signature]
Gene Bentley
Real Estate Commissioner

Date of Service: 8/5/2015

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days of the service of this order. Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of Appeals.
BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
REAL ESTATE AGENCY

IN THE MATTER OF:  
JOHN O. HALVORSON

) RULING ON MOTION FOR
) SUMMARY DETERMINATION
) AND PROPOSED ORDER

) OAH Case No.: 1403962
) Agency Case No.: 2013-90

HISTORY OF THE CASE

On October 2, 2014, the Real Estate Agency (REA or Agency) issued a Notice of Intent to Revoke to John O. Halvorson (Licensee), proposing to revoke Licensee’s license for violations of ORS 696.301(6), (7) and (14). The Notice alleged that by demanding a commission on a real estate transaction when he did not have a valid listing agreement and was not listed on the sale agreement, Licensee intentionally interfered with the contractual relations of others concerning professional real estate activity, intentionally interfered with the exclusive representation or exclusive brokerage relationship of another licensee, and committed an act of fraud or dishonesty substantially related to his fitness to conduct professional real estate activity. On October 21, 2014, Licensee requested a hearing.

On November 21, 2014, the Agency referred the hearing request to the Office of Administrative Hearings (OAH). The OAH assigned Senior Administrative Law Judge (ALJ) Alison Webster to preside at hearing.

On February 12, 2015, ALJ Webster convened a prehearing conference. Senior Assistant Attorney General (AAG) Raul Ramirez appeared for the Agency. Licensee participated without counsel. During the conference, AAG Ramirez advised that the Agency anticipated filing a Motion for Summary Determination. A briefing schedule for the Agency’s motion was established. In addition, a hearing was scheduled for July 14, 2015, in the event the motion was denied or not determinative of all issues.

On April 27, 2015, the Agency issued an Amended Notice of Intent to Revoke proposing revocation of Licensee’s license. In the Amended Notice, the Agency added an allegation that Licensee violated ORS 696.301(14) by forging a contractual document and committing perjury in connection with the forged document.

On May 7, 2015, the Agency, through its attorney, AAG Erin Williams, filed a Motion for Summary Determination (Motion) along with supporting documents pursuant to OAR 137-003-0580. On June 1, 2015, Licensee, through attorney Gary Roberts, filed a Memorandum in
Opposition to Motion for Summary Determination. On June 8, 2015, the Agency filed its Reply brief. Thereafter, ALJ Webster took the Motion under advisement.

ISSUES

Whether, as a matter of law, the Agency is entitled to revoke Licensee’s license and assess costs based on Licensee committing one or more of the following violations:

(1) Intentionally interfering with the contractual relations of others concerning real estate or professional real estate activity. ORS 696.301(6).

(2) Intentionally interfering with the exclusive representation or exclusive brokerage relationship of another licensee. ORS 696.301(7).

(3) An act of fraud or dishonest conduct substantially related to Licensee’s fitness to conduct professional real estate activity. ORS 696.301(14).

EVIDENTIARY RULINGS

In connection with the Motion, the Agency offered Exhibits 1 through 24. Agency Exhibits 1, 2, 6 through 10, 12 through 14, 16 through 18, 20, 23 and 24 were admitted without objection.

Licensee objected to Agency Exhibits 3, 4, 5, 11, 15, 19, 21 and 22 on hearsay and due process grounds. First, hearsay is generally admissible in administrative proceedings. See Cole/Dinsmore v. DMV, 336 Or 565 (2004); Petteys v. DMV, 195 Or App 644, 650 (2004). Furthermore, the foundation for each of the challenged documents is established in Exhibit 1, the Affidavit of Philip Johnson. Despite Licensee’s contention, Licensee has no constitutional due process right in this administrative proceeding to “confront the witnesses who provide evidence against him.” (Opposition at 4.) It is well-established that Article I, section 11, and the Sixth Amendment “confrontation clause” apply only to criminal prosecutions, and not proceedings under the Administrative Procedures Act. See, e.g., Carney v. MVD, 100 Or App 533 (1990). Consequently, Licensee’s hearsay and due process objections to these exhibits are overruled. The exhibits were admitted and considered in ruling on the Motion.

Licensee also objected to Agency Exhibit 22 insofar as it references deposition testimony of Licensee taken in connection with litigation between Licensee and others. Licensee contends

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1 Exhibits 3, 4 and 5 are business records, the Operating Agreements of Pacific Commercial Group LLC, Back 124th LLC and Back Holdings LLC, respectively; Exhibit 11 is a written report documenting Agency Investigator Philip D. Johnson’s interview of Richard Back; Exhibit 15 is a Residential Real Estate Sale Agreement dated November 29, 2012; Exhibit 19 is a written report of Investigator Johnson’s interview of Scott Elliott; Exhibit 21 is a copy of the complaint the Agency received from Mr. Back regarding Licensee; and Exhibit 22 is a series of emails to Investigator Johnson from Jenee Hilliard regarding litigation between Licensee and Mr. Back. According to Exhibit 1, the Affidavit of Philip D. Johnson, all of these documents were received or generated by the Agency in the course of its investigation of Licensee.
that his deposition testimony is confidential and subject to a court protective order prohibiting the use of confidential information obtained in discovery in the litigation. As noted, Exhibit 22 consists of emails from attorney Jennee Hilliard to Investigator Johnson. The emails describe developments in the circuit court litigation between Licensee, Mr. Baek and others and reference documents from the litigation provided to the Agency in connection with Mr. Baek's complaint and the Agency's investigation of Licensee.

Agency Exhibit 24, a document to which Licensee raised no objection, establishes that Licensee's objection to Exhibit 22 as confidential and protected is not well taken. Exhibit 24 is a General Judgment of Contempt issued in Multnomah County Circuit Case No. 1309-12855 (Consolidated) on February 9, 2015. The Judgment provides that evidence submitted in connection with the court's order to show cause proceedings (i.e., Licensee's deposition testimony) is not subject to any protective order issued in the consolidated proceedings, is not confidential and may be used by any party for any purpose. (Ex. 24 at 6.) Consequently, Licensee's objection to Exhibit 22 on this basis is also overruled.

In its Opposition to the Motion, Licensee offered the Affidavit of John Halvorson and Exhibits 101 through 121, and the Affidavit of Jonathan Radmacher with Exhibits A through G attached thereto. The Agency did not object to these records. Accordingly, they were admitted into the hearing record and considered in ruling on the Motion.

FINDINGS OF FACT

1. From April 23, 2007 through March 29, 2013, Licensee held an active license to conduct real estate activity in Oregon. Licensee did not renew his license, and the license expired on March 31, 2013. (Exs. 1 and 2.)

2. At all times pertinent to this matter, Licensee resided in California. (Ex. 11; Halvorson Aff.) Licensee has been a real estate broker for 25 years, and holds, or has held, licenses in in California, Washington and Arizona in addition to Oregon. (Halvorson Aff.)

3. In Oregon, Licensee's real estate license was associated with Pacific Commercial Group, LLC (PCG), a real estate brokerage firm. (Ex. 1.) PCG was formed in April 2007 by Licensee and Vital Technical Marketing, Inc. (VTM). When the company was formed, both Licensee and VTM held 50 percent interest in PCG. (Ex. 3.) Richard Baek (Mr. Baek) is the principal of VTM. (Exs. 1 and 3.)

4. In 2004 and 2005, R. Baek, and his sister, Grace Baek (Ms. Baek), formed two limited liability companies to hold real estate, Baek 124 LLC and Baek Holdings, LLC (the Baek LLCs). The Baek siblings were the only members of the Baek LLCs when the companies were formed. Each held a 50 percent interest. Initially, the Baeks agreed that management of the Baek LLCs would be vested in the members without an appointed manager. (Exs. 4 and 5.)

5. In 2005, Licensee and Ms. Baek were married. (Ex. 7 at 3; Ex. 11 at 2.) The marriage included a prenuptial agreement in which, among other things, Licensee agreed that he

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2 At some point prior to May 2012, Licensee gave up his ownership interest in PCG. (Ex. 11.)
would have no claim, based on the marriage, in various companies that served as investment vehicles for the Baek family. (Ex. 23 at 2.)

6. In October 2006, the Baeks amended the Operating Agreements of Baek 124th LLC and Baek Holdings LLC to make Licensee the manager of the Baek LLCs. (Ex. 101.)

7. In approximately 2007, the Baek LLCs purchased two parcels of property located at 8255 SW Beaverton Hillsdale Highway, Portland, Oregon. (Ex. 7 at 3.)

8. At some point, Ms. Baek gave Licensee half of her 50 percent interest in the Baek LLCs, giving him a 25 percent share in each company. (Ex. 11.)

9. In March 2010, the Baek LLCs, through managing member Licensee, entered into a “Listing Agreement – Exclusive Authorization to Sell” with PCG and Licensee, as manager and principal broker, to sell the two parcels of property on SW Beaverton Hillsdale Highway. The Listing Agreement, which authorized a six percent sales commission, gave PCG and Licensee exclusive right to sell the property for the period of March 1, 2010 to February 28, 2011. The Listing Agreement further required the Baek LLCs to pay the commission to Licensee if:

within Three Hundred Sixty (360) days after the expiration of this Authorization or any extension thereof, the Property or any interest therein is sold, transferred or conveyed to any person or entity with whom Broker has negotiated or to who Broker has submitted the Property prior to such expiration in an effort to effect a transaction (efforts to effect a transaction shall include but not be limited to individuals or companies which have been contacted directly, through mailings, phone solicitation, email or other means and for which can be identified by individual or company name and any affiliates thereof). ***

(Ex. 8.)

10. In June 2011, Licensee, in his capacity as the manager of the Baek LLCs, entered into purchase and sale agreement with JP Morgan Chase Bank for the sale of one of the parcels of property along SW Beaverton Hillsdale Highway (the front parcel). (Ex. 114.) In May 2012, Licensee, in his capacity as the manager of the Baek LLCs, entered into an amended agreement with Chase Bank for the purchase and sale of the front parcel. (Ex. 102.) The sale of the front parcel to Chase Bank closed in July 2012. (Ex. 7.)

11. Meanwhile, in May 2012, Scott Elliott of Edge Development, Inc. contacted Licensee via email and expressed an interest in purchasing the back parcel of property. Licensee, through Pacific Commercial Capital (Licensee's California business), advised Elliott as follows:

Yes, we would sell the lot for $400,000. I know the lot next door is being marketed for $300k, but we are in no rush to sell. Chase will be doing construction this summer and putting in storm and all other utilities on site.
12. On May 17, 2012, Elliott emailed Licensee a proposed Purchase and Sale Agreement for the back parcel. The proposed Purchase and Sale Agreement listed “John Halvorson of Pacific Commercial Capital” as the seller’s agent. (Ex. 10.) Neither Licensee nor Elliott signed this document. (Ex. 1.)

13. On May 25, 2012, Elliott emailed Licensee and asked if there was “news from Chase?” (Ex. 13 at 1.) Licensee forwarded Elliott’s email to Ms. Baek and to Mark Rutherford, an employee of VTM, adding: “Hi Mark and Grace, This is from Scott who wants to buy the rear parcel. Please follow up with him.” (Id.)

14. At or around this same time, Licensee advised Elliott that he (Licensee) was no longer going to be involved in the transaction. Licensee put Elliott directly in touch with Rutherford. (Ex. 19.)

15. On May 29, 2012, Rutherford and Licensee had a business meeting at Licensee’s home in California. During the meeting, Licensee informed Rutherford that he “will not be working on the sale of the back lot.” (Ex. 12 at 1.) Rutherford understood that Licensee was referring to the back parcel of property on SW Beaverton Hillsdale Highway. Licensee also advised Rutherford that he planned to pull his real estate license from PCG. (Id.)

16. In late May and early June 2012, Licensee remained involved in the sale of the front parcel to Chase Bank. (Halvorson Aff, Exs. 103 and 104.)

17. In late May or early June 2012, Elliott, acting for Edge Development, Inc., and Mr. Baek, as a member of the Baek LLCs, signed a Letter of Intent regarding the purchase of the back parcel. This Letter of Intent, which expired by its own terms on June 10, 2012, contemplated the completed sale of the front parcel to Chase Bank and the re-plat of the property. (Ex. 14.)

18. In November 2012, Licensee petitioned for divorce from Ms. Baek. (Ex. 117.)

19. In December 2012, Elliott and Mr. Baek executed a Real Estate Sale Agreement for the sale of the back parcel. The Agreement listed Edge Development/Scott Elliott as the Buyer; Baek Holdings, LLC and Baek 124th LLC as the Sellers; and Rob Matthews of Georgetown Realty as the Listing Licensee and the Seller’s exclusive agent. (Ex. 15.)

20. The Real Estate Sale Agreement for the sale of the back parcel was submitted to escrow at First American Title Company. On March 1, 2013, as escrow at First American Title was set to close, Licensee sent the escrow agent the following email:

Re: Escrow - 570587 for Baek 124, LLC and Baek Holdings, LLC
Please accept this email as my demand for payment of 3% commission on the above transaction.

I am the Principal Broker for Pacific Commercial Group, LLC license #200701035.

Please confirm receipt of this email and that you will be setting up payment of commission by wire upon close of escrow.

(Ex. 17 at 1.) Licensee attached a letter to the email on Pacific Commercial Capital letterhead. The letter contained wiring instructions for Escrow #570587 (the escrow associated with the back parcel). The instructions directed that funds be wired to the bank account of “Halvorson Financial Inc. dba Pacific Commercial Capital” at Bank of America in El Toro, California. (Id. at 2.)

21. In response to Licensee’s email, the escrow agent advised Licensee that the title company did “not have authorization to provide you with details regarding this transaction at this point.” (Ex. 18 at 1.) Licensee then sent the escrow agent the following email:

Hi Rachel,

I understand you don’t have authorization to release information to me.

But I want to be clear: have you asked the seller via email or other means for authorization?

If so did they direct you to exclude me from this transaction? If you have any communications from the seller please forward it to me so I can see it.

Again, I am a 25 percent owner and Principal of both LLCs in the selling entities.

I am also the listing broker with a legal binging [sic] contract for a 3% commission to be paid at close of escrow.

(Id.)

22. On March 4, 2013, Licensee, through counsel, sent a Notice of Adverse Interest to First American Title claiming an interest in the proceeds from the sale of the back parcel, Escrow #570587. The Notice of Adverse Interest stated that the interest was based on Licensee’s community property interest arising out of his marriage to Ms. Baek, his ownership interest in the Baek LLCs and his “interest arising as a result of being the principal broker of record for this transaction (Pacific Commercial Group, LLC).” (Ex. 117.)

23. Because of Licensee’s claimed interest in the sale proceeds, including his claimed entitlement to three percent commission on the sale, the escrow at First American Title was
terminated. The title company was unwilling to release proceeds from the sale of the back parcel because of Licensee’s claimed interest. (Exs. 11 and 19.)

24. On April 5, 2013, Elliott emailed Rutherford regarding the pending sale of the back parcel. He wrote:

After considerable thought and discussion regarding this pending land sale I need to inform you and Rich Baek that your request to remove the sale out of escrow is not achievable. In my opinion this process deviates too far from the agreed upon contract and potentially exposes me to outside claims. We have all worked in good faith to come up with an agreeable solution but unfortunately it appears not to be possible. I remain ready willing and able to proceed with the land purchase per the agreed upon terms.

(Ex. 20.)

25. On April 26, 2013, Mr. Baek filed a complaint with the Agency regarding Licensee. Mr. Baek alleged, among other things, that Licensee misrepresented that he was the principal broker of record for the sale of the back parcel to Edge Development and falsely claimed that he was entitled to a commission on the sale of the property. Mr. Baek further alleged that Licensee’s actions were preventing the sale from closing. (Ex. 21.)

26. The sale of the back parcel to Edge Development/Elliott closed on or about August 20 2013, after Elliott filed suit against the Baek LLCs for specific performance. (Exs. 6 and 19.)

27. At some point in 2013, Licensee and the Baeks became embroiled in litigation regarding Licensee’s alleged ownership interest in the Baek LLCs, Licensee’s entitlement to a commission on the sale of the back parcel and other matters. Licensee’s actions against the Baeks and the Baek LLCs, and the Baeks and Baek LLCs actions against Licensee were consolidated into one matter in Multnomah County Circuit Court, Case No. 1309-12855. (Exs. 23 and 24.)

28. In the course of discovery in the consolidated circuit court cases, Licensee provided a document to the other parties purporting to be a 2008 amendment to his and Ms. Baek’s prenuptial agreement. Among other things, this document indicated that Licensee had community interest in the Baek family properties. The opposing parties were unfamiliar with this amendment and believed that Licensee had fabricated it. When confronted about the document at his deposition, Licensee defended it and denied that he created it. He swore to its validity and asserted that it established his claims to an ownership interest in the Baek companies. Subsequently, in an errata sheet to his deposition, Licensee acknowledged that his answers to questions regarding the amended prenuptial agreement were false. He also admitted creating the forged document. (Ex. 23 at 3-4; Ex. 22; Ex. A to Radmacher Aff.)

29. In an Opinion and Order issued in the consolidated circuit court cases on June 25, 2014, Judge Edward J. Jones found as follows:
The court finds, beyond a reasonable doubt, that Mr. Halvorson intentionally, and in bad faith, forged the amended prenuptial agreement in an effort to gain unfair advantage in his litigation with the Baeks and their companies. The court further concludes Mr. Halvorson’s forgery did inflict damage on the truth seeking process, was prejudicial to other parties, and did undermine the administration of justice.

(Ex. 23 at 5.)

30. In a General Judgment of Contempt issued February 9, 2015 in the consolidated cases Judge Jones found, in part, as follows:

1. Halvorson willfully and maliciously disobeyed the Court’s authority or processes in contempt of this Court by deliberately and intentionally falsifying evidence in discovery and repeatedly and knowingly committing perjury about his role in producing false evidence, and that Halvorson intentionally and knowingly did so for personal gain and to deceive the parties and this Court, and his disobedience has been proven beyond a reasonable doubt.

2. Halvorson committed fraud on the Court and the parties by knowingly falsifying evidence in discovery and repeatedly committing perjury about his role in producing the false evidence.

3. Halvorson’s contempt of and fraud upon the Court has inflicted serious damage to the truth seeking process and has severely prejudiced and injured other parties and the administration of justice in these consolidated proceedings.

4. At the time of the falsification of evidence and perjury, Halvorson knew that such conduct was wrongful, without cause, and would prejudice and cause injury to the other parties and the administration of justice.

(Ex. 24 at 4.) As a sanction for Licensee’s willful and malicious misconduct and knowing and deliberate fraud on the court and parties, Judge Jones ordered all of Licensee’s claims, counter claims and third party claims dismissed with prejudice. The court further ordered Licensee to pay all other parties all reasonable attorney fees incurred by the other parties as a result of Licensee’s willful and malicious misconduct and knowing and deliberate fraud. (Ibid. at 5.)

CONCLUSIONS OF LAW

As a matter of law, the Agency is entitled to revoke Licensee’s license and assess costs based on Licensee committing the following violations:

(1) Intentionally interfering with the contractual relations of others concerning real estate or professional real estate activity. ORS 696.301(6).
(2) Intentionally interfering with the exclusive representation or exclusive brokerage relationship of another licensee. ORS 696.301(7).

(3) An act of fraud or dishonest conduct substantially related to Licensee’s fitness to conduct professional real estate activity. ORS 696.301(14).

**OPINION**

1. **Summary Determination Standard**

ORS 137-003-0580 is titled “Motion for Summary Determination” and provides, in relevant part:

(6) The administrative law judge shall grant the motion for a summary determination if:

(a) The pleadings, affidavits, supporting documents (including any interrogatories and admissions) and the record in the contested case show that there is no genuine issue as to any material fact that is relevant to resolution of the legal issue as to which a decision is sought; and

(b) The agency or party filing the motion is entitled to a favorable ruling as a matter of law.

(7) The administrative law judge shall consider all evidence in a manner most favorable to the non-moving party or non-moving agency.

(8) Each party or the agency has the burden of producing evidence on any issue relevant to the motion as to which that party or the agency would have the burden of persuasion at the contested case hearing[.]


**...**

(12) If the administrative law judge’s ruling on the motion resolves all issues in the contested case, the administrative law judge shall issue a proposed order in accordance with OAR 137-003-0645 incorporating that ruling or a final order in accordance with 137-003-0665 if the administrative law judge has authority to issue a final order without first issuing a proposed order.

For the reasons that follow, I find that as to the alleged violations of ORS 696.301, there are no genuine issues of material fact and the Agency is entitled to favorable ruling as a matter of law. The evidence presented, even when viewed in a light most favorable to Licensee, demonstrates that Licensee intentionally interfered with contractual relations between the Baek LLCs and Edge Development/Elliott, intentionally interfered with another broker’s exclusive representation and engaged in acts of fraud and dishonest conduct substantially related to his
fitness to conduct real estate activity.

2. **Applicable Statutes and Rules**

As pertinent here, ORS 696.301 grants the Agency the authority to suspend or revoke the real estate license of any real estate licensee, reprimand any licensee or deny the issuance or renewal of a license to an individual who has done the following:

(6) Intentionally interfered with the contractual relations of others concerning real estate or professional real estate activity.

(7) Intentionally interfered with the exclusive representation or exclusive brokerage relationship of another licensee.

* * * *

(14) Committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity.

3. **Interference With Contractual Relations**

The Agency first asserts that by submitting a demand for commission from the sale of the back parcel to First American Title Company when he did not have a valid, active listing agreement and was not listed on the sales agreement, Licensee intentionally interfered with the contractual relations of others concerning real estate or professional real estate activity, in violation of ORS 696.301(6).

The undisputed evidence establishes the following: Licensee had a listing agreement to sell the back parcel that expired by its own terms on February 28, 2011. More than a year later, in May 2012, Scott Elliott of Edge Development contacted Licensee and expressed an interest in purchasing the back parcel. Licensee responded that “we would sell the lot for $400,000.” Licensee notified Ms. Baek and Mark Rutherford of Elliott’s interest in the property and asked them to follow up with Elliott. In June 2012, Elliott, acting for Edge Development, and Mr. Baek, acting for the Baek LLCs, signed a Letter of Intent regarding the purchase of the back parcel. In December 2012, Elliott and Mr. Baek executed a Real Estate Sale Agreement regarding the back parcel. The Sale Agreement identified Rob Matthews as the Seller’s exclusive agent. The Sale Agreement was submitted to escrow at First American Title Company. Then, in March 2013, as escrow was set to close, Licensee sent a demand to First American Title for three percent commission on the transaction. Licensee represented that he was the listing broker with a legally binding contract for the commission to be paid at the close of escrow. Licensee’s demand for a brokerage fee prevented the sale from closing in a timely manner in March 2013.
There is no evidence that, in May 2012 or any time thereafter, Licensee had a legally binding contract for a commission on the sale of the back parcel. Licensee’s March 2010 Listing Agreement with the Baek LLCs expired on February 28, 2011. Although that agreement required the Baek LLCs to pay a commission to Licensee if the property sold to a person or entity with whom Licensee had negotiated within 360 days after the agreement’s expiration, the property did not sell within that 360 day time frame (i.e., by February 23, 2012). The transaction closed in August 2013, considerably more than 360 days after the expiration of the listing agreement.

There is also no evidence that, while the March 2010 Listing Agreement was in effect, Licensee solicited Elliott or that he took efforts to effect a transaction with Elliott. As noted above, the Listing Agreement expired on February 28, 2011. Elliott contacted Licensee about purchasing the property in May 2012, 15 months later. Consequently, and despite Licensee’s contention in opposition to the Motion, Licensee was not entitled to a commission on the sale of the back parcel under the terms of the March 2010 Listing Agreement.

Moreover, Licensee’s claimed belief that there was a subsequent listing agreement that took effect after the March 2010 Agreement expired does not create a genuine issue of material fact. There is no proof that the parties entered into a new contract, and the evidence in the record indicates otherwise. Indeed, in May 2012, Licensee directed Ms. Baek and Mr. Rutherford to follow up with Elliott about the deal. He later represented to both Elliott and Rutherford that he would not be working on the transaction. The June 2012 Letter of Agreement did not identify Licensee as the broker and the Real Estate Sale Agreement executed several months later named Rob Matthews, rather than Licensee, as the listing licensee and the seller’s exclusive agent.

In short, when, in March 2013, Licensee submitted the demand for a commission from the sale of the back parcel to First American Title Company and stated that he was the “listing broker” with a legally binding contract, he did not in fact have a valid, active listing agreement for the property. Therefore, his representations to the title company were false.\(^3\) His actions were also intentional, as he deliberately attempted to insert himself into the transaction and to be paid a commission as a principal broker. Moreover, his actions were disruptive to the transaction. His demands for a commission prevented the sale from closing in a timely manner.\(^4\) The violation of ORS 696.301(6) has been established.

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\(^3\) Whether or not Licensee misrepresented his status as an owner or manager of the Baek LLCs is not relevant or material to the violation of ORS 696.301(6). The Agency’s allegations are based on Licensee’s claimed status as the principal broker and his demands for a commission on the sale, rather than his claimed ownership interest in the back parcel.

\(^4\) License’s assertion that he did not intend to delay or prevent the sale from occurring is not determinative. Licensee intentionally interfered in the sales transaction and his interference contributed to the cancellation of the First American Title escrow and the several-month delay in closing.
Contrary to Licensee’s argument, the Agency need not prove the elements of the tort of intentional interference with contractual relations to establish a violation of ORS 696.301(6). As the Agency asserts, the standards set out in ORS 696.301 embody professional ethical standards for real estate licensees, not tort standards. The provisions of ORS Chapter 696 were enacted “to assist in creating for the public a healthy real estate market atmosphere and to assure that professional real estate activity is conducted with high fiduciary standards.” ORS 696.015(1). The Agency need only prove, as it has done here, that Licensee acted intentionally and his actions interfered with the real estate contract of another. See, e.g., Blank v. Black, 14 Or App 470 (1973) (noting, under a former version of the disciplinary statute, that the terms “bad faith,” “untrustworthiness” and “improper dealing” include “conduct in a real estate transaction which amounts to a breach of a moral obligation or duty owed to another, as well as conduct which constitutes a breach of a legal duty and which is legally actionable.”)

4. **Interference With Exclusive Brokerage Relationship**

The Agency next asserts that by submitting a demand for commission on the sale of the back parcel to First American Title Company when he did not have a valid, active listing agreement and was not listed on the sales agreement, Licensee intentionally interfered with the exclusive brokerage relationship of another licensee in violation of ORS 696.301(7)

It is undisputed that the Baek LLCs identified Rob Matthews of Georgetown Realty as the listing licensee and the seller’s exclusive agent on the signed Real Estate Sale Agreement between the Baek LLCs and Edge Development for the sale of the back parcel. As discussed above, Licensee’s listing agreement with the Baek LLCs expired in February 2011, a year and a half before Mr. Back and Elliott executed the Sale Agreement in December 2012. At no point pertinent to this sale transaction did Licensee have a valid, active listing agreement with the Baek LLCs. Consequently, by representing himself to the title company as the listing broker with a binding contract for a three percent commission on the sale of the back parcel, Licensee interfered with Mr. Matthews’s exclusive representation of the Baek LLCs. Licensee’s violation of ORS 696.301(7) has also been established.

5. **Fraud or Dishonest Conduct**

The Agency also alleges that Licensee’s demand that the title company pay him a three percent commission on the sale of the back parcel, his forgery of a contractual document and his perjury in connection with the forged document constitute acts of fraud or dishonesty substantially related to his fitness to conduct professional real estate activity in violation of ORS 696.301(14).

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5 In Oregon, to prevail on a claim for intentional interference with economic relations, a plaintiff must prove the following: (1) the existence of a professional or business relationship (which could include, e.g., a contract or a prospective economic advantage), (2) intentional interference with that relationship, (3) by a third party, (4) accomplished through improper means or for an improper purpose, (5) a causal effect between the interference and damage to the economic relationship, and (6) damages. See, e.g., McGanty v Staudenraus, 321 Or 532, 535 (1995).
As found above, Licensee falsely claimed to the title company in March 2013 that he was the listing broker with a legally binding contract for a three percent commission on the sale of the back parcel. However, even if one accepts Licensee’s claim that he believed he had a listing agreement with the Baek LLCs in effect in 2012 which justified his demand for a commission, it is undisputed that, in the course of litigation with the Baeks and the Back LLCs, Licensee committed an act of fraud and engaged in dishonest conduct substantially related to his fitness to conduct professional real estate activity.

Licensee concedes that he forged a contractual document and falsely testified about its validity under oath. Judge Jones specifically found beyond a reasonable doubt that Licensee intentionally and in bad faith forged the document to gain unfair advantage in litigation with the Baeks. In dismissing Licensee’s claims, counterclaims and third party claims against the Baeks and the Back LLCs with prejudice, Judge Jones determined that Licensee’s conduct constituted willful and malicious misconduct and knowing and deliberate fraud on the court and parties to the litigation. While Licensee’s acts of forgery and perjury occurred in his personal, as opposed to professional, capacity, his egregious conduct is nevertheless substantially related to his fitness to conduct professional real estate activity.

As the legislature recognized in ORS 696.015, professional real estate activity is a matter of public concern, and is to be conducted with high fiduciary standards. In addition to fiduciary duties to their clients, licensed brokers have an affirmative duty to, among other things, deal honestly and in good faith and disclose known material facts. See, e.g., ORS 696.805, 696.810 and 696.815. Licensee’s intentional acts of fraud and perjury bear an obvious and substantial relationship to his fitness, or lack thereof, to engage in professional real estate activity. His actions demonstrate the extreme lengths to which he is willing to go to achieve personal financial gain. See Kerley v. Real Estate Agency, 337 Or 309 (2004) (holding that a person’s prior acts of dishonesty and untrustworthiness relate substantially to his or her fitness and ability to engage in real estate activity and can justify denial or revocation of licensure). The violation of ORS 696.301(14) has also been proven.

Although Licensee concedes that he engaged in fraudulent and dishonest conduct, he nevertheless asserts that his actions do not support a permanent revocation of his license. He contends that his forgery and perjury were out of character, a one-time transgression, and the result of frustration arising out of contentious divorce proceedings and a soured relationship with his brother-in-law. However, regardless of the context, the fact remains that Licensee acted intentionally and in bad faith by falsifying evidence and repeatedly committing perjury. Given the circumstances, including Licensee’s violations of ORS 696.301(6), (7) and (14), the willful and malicious nature of his misconduct and the Agency’s broad discretion in

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6 Given Licensee’s concession in opposing the Agency’s motion that he falsified a document and gave false testimony, his assertion that the Agency’s action on this issue is premature because the court’s findings and rulings are not final is somewhat disingenuous. Further, pursuant to ORS 18.082 (Effect of entry of judgment), the court’s February 9, 2015 General Judgment of Contempt becomes the exclusive statement of the court’s decision in the case and is enforceable in the manner provided by law.

In the Matter of John O. Halvorson, OAH Case No. 1403962
Page 13 of 15
sanctioning its licensees, the Agency is entitled to revoke Licensee’s Oregon real estate license.  

RULING AND PROPOSED ORDER

The Agency’s Motion for Summary Determination is GRANTED.

John O. Halvorson’s license to conduct real estate activity in Oregon is REVOKED.

NOTE: Because this Ruling on Motion for Summary Determination and Proposed Order is determinative of all issues in this matter, the contested case hearing scheduled for July 14, 2015 is cancelled.

Alison Greene Webster
Senior Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the Administrative Law Judge's Proposed Order. If the Proposed Order is adverse to you, you have the right to file written exceptions and argument to be considered by the Real Estate Commissioner in issuing the Final Order. Your exceptions and argument must be received by the 20th day from the date of service. Send them to:

Denise Lewis
Oregon Real Estate Agency
1177 Center St. NE
Salem OR 97301-2505

The Real Estate Commissioner will issue a Final Order, which will explain your appeal rights.

Although Licensee’s license expired in 2013, the Agency retains jurisdiction to investigate Licensee, to conduct disciplinary proceedings, and to take action against Licensee. ORS 696.775.
CERTIFICATE OF MAILING

On June 25, 2015, I mailed the foregoing RULING ON MOTION FOR SUMMARY DETERMINATION AND PROPOSED ORDER issued on this date in OAH Case No. 1403962.

By: First Class Mail

Gary Roberts
Attorney at Law
Roberts Law Group
520 SW Yamhill Ste 208
Portland OR 97204

Denise Lewis
Real Estate Agency
1177 Center Street NE
Salem OR 97301-2505

Raul Ramirez
Senior Assistant Attorney General
Department of Justice
1162 Court St NE
Salem OR 97301-4096

Ryan Clark
Administrative Specialist
Hearing Coordinator

In the Matter of John O. Halvorson, OAH Case No. 1403962
Page 15 of 15
CERTIFICATE OF MAILING

On August 05, 2015, I mailed the foregoing Final Order issued on this date in OAH Case No. 1403962 and Agency Case No. 2013-90.

By: First Class Mail

JOHN OLAF HALVORSON
PO BOX 80067
Rancho Santa Margarita, CA  92688

Gary Roberts
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520 SW Yamhill St Ste 208
Portland, OR 97204

Office of Administrative Hearings
ALJ Alison Webster
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Salem OR 97309-4020

Raul Ramirez
Senior Assistant Attorney General
Department of Justice
1162 Court St NE
Salem OR 97301-4096

Carolyn Kalb
Compliance Specialist
REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Principal Broker License of

STIPULATED FINAL ORDER

KELLY DEE HYDE

The Oregon Real Estate Agency (OREA) and Kelly Dee Hyde (Hyde) do hereby agree and stipulate to the following:

FINDINGS OF FACT

1.1 Hyde obtained her real estate broker license on December 27, 2011. Her license was associated with Century 21 JC American Dream (Century 21). Sarah Miller (Miller) was the principal broker for Century 21. On October 31, 2014, Miller left Century 21, which left no principal broker for the company.

1.2 When Miller left, Hyde was 57 days short of meeting the 3 years active experience required to be eligible to obtain a principal broker license.

1.3 On November 6, 2014, Commissioner Gene Bentley granted Hyde a limited principal broker license with the following conditions that Hyde:

- Complete the principal broker application by November 7, 2014,
- Complete the Brokerage Administration Supervision and Sales Course,
- Successfully complete the principal broker state and national exams, and
- Become a licensed principal broker no later than December 31, 2014.

1.4 Hyde signed the limited license agreement with the above listed conditions. On November 5, 2014, Hyde applied for her principal broker license, but did not complete the other three items listed in the agreement.

1.5 On January 20, 2015, Madeline Alvarado (Alvarado) in the OREA Licensing Division, sent Hyde an email stating that her license would be inactivated effective January 1, 2015 because she had not complied with the requirements of the limited license.
1.6 Hyde’s license became inactive on January 1, 2015. She did not become actively licensed as a principal broker until April 2, 2015. During the time Hyde’s license was inactive, January 1, 2015 to April 2, 2015, 91 days, Hyde continued conducting professional real estate activity as if actively licensed.

CONCLUSION OF LAW
By conducting professional real estate activity over the course of 91 days after Hyde’s license was inactivated, Hyde violated ORS 696.020(2) and is subject to discipline or civil penalty pursuant to ORS 696.990(4).

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, in which case an amended notice of intent may be issued in this matter. 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.

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2 of 3 – Stipulated Final Order-Kelly Dee Hyde
ORDER

IT IS HEREBY ORDERED that pursuant to ORS 696.990(4) and based upon the violation set forth above, Hyde pay a civil penalty in the sum of $2,500.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to the OREA. The civil penalty is computed in that each 30-day period of unlicensed activity is considered one violation. In this instance, there were three 30-day periods of unlicensed activity.

IT IS SO STIPULATED:

[Signature]
KELLY DEE HYDE

Date August 4, 2015

IT IS SO ORDERED:

[Signature]
GENE BENTLEY
Real Estate Commissioner

Date 8.12.15

DATE of service: 8/12/2015
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), continuing education (CE) audit investigations, 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 Regulation Division will be having an off-site conference to explore ideas, including:
- Identifying “red flags” in clients’ trust accounts (CTA) audits and investigations
- Potential enhancements to our current CTA mail-in audit program
- Further streamlining of complaint and investigation processes

Selina Barnes is scheduled to present the training “Tips for Staying Out of Trouble with the Agency” (the revised “Dos & Don’ts”) as follows:
- Springfield, September 24, 2015
- Ontario, October 5, 2015 (following the board meeting)
- Bend, October 16, 2015
- Coos Bay, December 7, 2015 (following the board meeting)

Selina will also be making a presentation at the Oregon Association of Realtors® 2015 Convention in Sunriver on October 1, 2015. This presentation will be an in depth discussion of several recent cases.

For information on investigations resulting in administrative actions, please review the “Administrative Actions Summary” section of the Board packet.
Manager: Stacey Harrison

Division Overview
This division carries out the Agency’s mission by providing for the advancement of education and research in connection with the educational requirements for the securing of licenses for real estate licensees. The division does this by approving pre-license and post-license courses, certifying continuing education providers, developing and maintaining exams and test items, developing informational publications and providing customer services via phone and electronic mail.

Workload and Activity Indicators

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Year to date examination totals for August 2015 showed a 20% increase in the number of examinations administered for the same period in 2014.

Pass Rates

PSI, the Agency’s examination provider, implemented the following new examinations on January 1, 2013:
- Broker State: 50 items, Broker National: 80 items
- Principal Broker State: 50 items, Principal Broker National: 80 items
- Property Manager: 130 items

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*Pass rate statistics include exam candidates from all schools. Exam candidates may have completed the course prior to the new course requirements effective January 1, 2013.
Division Manager: Michael Hanifin
Admin. Specialist: Colleen Peissig

Section Overview: The Land Development Division reviews filings made with the agency related to condominiums, timeshares, subdivisions, manufactured home subdivisions, and membership campgrounds. The section reviews the foundational documents creating these properties, as well as later amendments to those documents, to verify compliance with statutory requirements. We also issue the Disclosure Statement or Public Report (depending on the type of filing) which summarizes the nature of the interest being offered for sale to consumers.

Workload and Activity Indicators:

No program changes have occurred over the last two months.

Current Projects:
- Design of website section related to Land Development.
- Continue updating PDF forms for launch with website redesign.
- Rulemaking related to increase in hourly fee for condominium review.

Additional information related to hourly fee increase:
The current hourly fee for review is 46 dollars per hour. Although we do not have the exact date the current fee was implemented, we have found documents referencing the 46 dollar an hour fee that are 27 years old, which indicates the fee has not been adjusted for at least that length of time. The basis of the fee is ORS 100.670. Under this law, the commissioner is authorized to recover the cost of review, approval or revision activities (the cost to maintain the program which performs these activities). The hourly fee is the only vehicle provided by statute for recovering the entire program cost related to review, approval and revision activities, therefore the hourly fee does not reflect the cost for an hour of labor for review, but the rate we must bill per hour to recoup all section costs year to year. The new proposed fee is 200 dollars per hour, and was derived from analysis of a 5 year average of section activity and costs associated with the program. We are currently engaged in outreach to the community regarding the proposed rule increasing the hourly fee.
REAL ESTATE BOARD
BUSINESS AND LICENSING SERVICES DIVISION REPORT
October 1, 2015

Manager: Dean Owens
Accountant: Caty Karayel
Systems Administrator: Tiffani Miller
Efficiency Specialist: Anna Higley
Program Analyst: Madeline Alvarado
Licensing Specialists: Tami Schemmel and Ruslan Putintsev
Receptionist: Sue Davenhill

Section Overview
The Business and Licensing Services Division acts as support to the Agency. This division manages budget/allotment preparation, accounting, purchasing and contracting, inventory control, facilities, payroll, special projects, Information Technology (IT), and licensing services.

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. Please see related statistics on the following page.

2015 Budget Update
Personal Services: No estimated remaining limitation;
• The Agency’s Information Systems Specialist 3 position is eliminated in the 2015 budget.
• Services & Supplies: Remaining limitation of $488,651.
• Agency Budget – total savings of $468,318 of our limitation.

Revenue: The final revenue for the 13-15 biennium is $5.67 million. The Agency began the biennium with a balance of $1.9 million (cash reserves). Five months of operating expenses would total approximately $1.2 million. The Agency has ended the biennium with a $1.0 million ending balance.

Updates/Future Advancements
• The Agency has moved to 530 Center St NE, Suite 100, Salem, OR 97201
• The Agency launched an upgraded version of eLicense. The system has a modernized look and feel as well enhanced capabilities for ongoing system enhancements. In the new version the Agency has introduced the following new services:
  o Anytime Continuing Education reporting which allows the licensee to enter continuing education courses throughout their renewal cycle, as they take their courses. The continuing education is logged to the licensee record and available for edit and view by licensee anytime, as well as preloaded in their renewal application for expedited submission.
  o The Self-Administered Online Certified License History which allows a current or former licensee directly and immediately obtain a comprehensive license history which includes the following license related information:
    ▪ Current Licensee Information
    ▪ Previously Held License Information
    ▪ Examination Records
Disciplinary Records (Administrative Action Cases Only)
Business Affiliation/Supervision History

Licensing Statistics

**Total Licenses:**

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