Notice of Agenda
OREGON REAL ESTATE BOARD
Regular Meeting Agenda
Monday, August 1, 2016
Hamley Steakhouse
8 S.E. Court Ave.
Pendleton, OR  97801

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

I. BOARD BUSINESS – Vice-Chair Rathbone
   A. Call to Order
   B. Vice-Chair Rathbone comments/Roll Call
   C. Approval of the Agenda and Order of Business
   D. Approval of 6.6.16, regular meeting minutes
   E. Date of the Next Meeting: 10.3.16 to begin at 10am at the Oregon State Bar Conference Center, 16037 SW Upper Boones Ferry Rd., Tigard, OR  97224

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

III. REQUESTS FOR WAIVERS – Vice-Chair Rathbone. Waiver request log. None.

IV. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER– Vice-Chair Rathbone - Approval of petition log. None.

V. NEW BUSINESS – Vice-Chair Rathbone

VI. COMMUNICATIONS – Administrative Actions Summary – Vice-Chair Rathbone

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

VIII. ANNOUNCEMENTS – Vice-Chair Rathbone. Next board meeting: 10.3.16 to begin at 10am at the Oregon State Bar Conference Center, 16037 SW Upper Boones Ferry Rd., Tigard, OR  97224

IX. ADJOURNMENT – Vice-Chair Rathbone

Interpreter services or auxiliary aids for persons with disabilities are available upon advance request.
I. BOARD BUSINESS-Chair Hermanski
   A. Call to Order. Chair Hermanski called the meeting to order at 10am.
   B. Roll Call/Chair Hermanski comments. Chair Hermanski explained the function/role of the board, asked board members to introduce themselves, and the board liaison to conduct roll call.
   C. Approval of the Agenda and Order of Business. The Agenda and Order of Business were approved as submitted.

MOTION TO APPROVE THE AGENDA AND ORDER OF BUSINESS BY MARICA EDWARDS
SECOND BY JEF FARLEY
D. Approval of the 4.4.16, regular meeting minutes. The 4.4.16 regular meeting minutes were approved as submitted.

MOTION TO APPROVED 4.4.16 REGULAR MEETING MINUTES BY PAT IHNAT
SECOND BY JEF FARLEY
MOTION CARRIED BY UNANIMOUS VOTE

E. Date of Next Meeting: 8.1.16 at Hamley Steakhouse, 8 S.E. Court Ave., Pendleton, OR 97801

PUBLIC COMMENT-Chair Hermanski. None.

- 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.

II. REQUESTS FOR WAIVER-Chair Hermanski. Waiver Request Log.
A. William Patten requests experience waiver for principal broker’s license. Mr. Patten explained that he purchased his firm as a broker two years ago and hired a principal broker to supervise who has since left the firm and he is having difficulty finding another principal broker for hire. He also explained that he only has 4 months remaining to fulfill the 3 year experience requirement and has 25 years of experience in managing leases.

MOTION TO APPROVE WILLIAM PATTEN’S REQUEST FOR EXPERIENCE WAIVER FOR PRINCIPAL BROKER’S LICENSE BY MARCIA EDWARDS
SECOND BY PAT IHNAT
MOTION CARRIED BY UNANIMOUS VOTE

III. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER – Approval of petition log.
A. Kenneth Holman will appear by phone. Mr. Holman withdrew his petition and indicated his intention to re-petition the board as a trade association at a later date.
B. CMPS Institute (Gibran Nicholas & Julianna Nicholas) appearing by phone – Chair Hermanski asked CMPS to summarize the basis of their petition. Gibran Nicholas explained that CMPS Institute has provided education across the country and is approved in 10 states to provide CE to real estate agents. Mr. Nicholas also explained CMPS Institute offers the following acceptable course topics: advertising; regulation; consumer protection; real estate taxation; and finance. Chair Hermanski asked if they were familiar with the record keeping requirements and Ms. Nicholas responded that they are familiar with the record keeping requirements.

MOTION TO APPROVE CMPS INSTITUTE’S PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER BY MARCIA EDWARDS
SECOND BY LAWNAE HUNTER
MOTION CARRIED BY UNANIMOUS VOTE

IV. BOARD ADVICE/ACTION-Commissioner Bentley. None.

V. NEW BUSINESS-Chair Hermanski. None.

VI. COMMUNICATIONS-Chair Hermanski-Administrative Actions Summary. Discussion: Marcia Edward asked Selina Barnes to speak to how Agency investigates the online accusations. Ms. Barnes responded that the Agency does not have the expertise to track down details but works with law enforcement.

VII. REPORTS
A. Commissioner Gene Bentley.
• ARELLO Mid Annual Conference was held in Atlanta in April
  ➢ Arkansas has legislation to eliminate licensing requirement
  ➢ Arizona has similar CE reporting process as Oregon
  ➢ General consensus is that real estate activity is up significantly since 2007
• Summary of licensing counts
• Agency review of ORS 696 review has resulted in a majority of house-keeping issues.
  Specifically the OREA licensing fee and Land Development fee increases effective July 1,
  2017 (20 years since last fee increase)
• Compliance Review may result in a self-study process
• CTA manual is being developed as an educational tool (Agency has initiated Court-Appointed
  receiverships to resolve embezzlement of funds)
• Appreciation and thanks to Mesheal Heyman, the Agency’s Communications Coordinator, for
  her role in developing the new Agency website

B. Agency Division reports/Deputy Commissioner Dean Owens (reports included in packet)
• Regulation Division-Selina Barnes. Ms. Barnes summarized the statistics provided in the
  board packet. She also announced that Janae Beaver joined the Agency as an Administrative
  Specialist in the Regulations Division. Alex MacLean asked Ms. Barnes to explain the average
  of complaints and Ms. Barnes responded the statistics were on a weekly/monthly basis and the
  investigation process from beginning to end. Mr. MacLean also asked Ms. Barnes how many
  investigators were employed in the Regulations Division and she responded there were 7
  investigators, 4 compliance specialists and 1 lead worker. She further explained that the
  compliance specialists handle CTA audits, background investigations, or issues with renewals.
• Land Development Division-written report by Michael Hanifin. Deputy Commissioner
  Owens explained that the Land Development Division was responsible for processing
  condominium filings, managing campgrounds, and timeshares. He also explained that the file
  review fee will be increased to $200 effective July 1, 2017. Mr. Owens also summarized the
  information and statistics provided in the board packet.
• Education, Business and Licensing Services Division-Dean Owens. Deputy Commissioner
  Owens explained that the Business/Licensing Services Division is responsible for budget,
  payroll, licensing, IT, facility and administrative issues. He also reported that the Agency
  recently migrated to a new phone system which allow calls to be directed to the next available
  representative rather than being placed on hold. Mr. Owens also summarized the statistics
  provided in the board packet which included budget information. He also reported that the
  Education Division was doing business as usual and that the exam pass rates fluctuate and the
  Agency reached out to the industry for assistance in testing the new website.

VIII. ANNOUNCEMENTS. Next board meeting: 8.1.16 at Hamley Steakhouse, 8 SE Court Ave., Pendleton, OR
97801

IX. ADJOURNMENT

Respectfully submitted: Respectfully submitted:

GENE BENTLEY, COMMISSIONER CONI RATHBONE, VICE-CHAIR
ADMINISTRATIVE ACTIONS
Reported
May 21, 2016 through July 15, 2016

REVOCATIONS

SUSPENSIONS
Shivers, Nickolas (Tualatin) Principal Broker 200209063, Stipulated Order dated April 18, 2016 issuing a suspension of his license.

REPRIMANDS
King, Gordon (Salem) Principal Broker 921100135, Stipulated Order dated June 13, 2016 issuing a reprimand with education.
Moody, Linda (Oakridge) Principal Broker 950100188, Stipulated Order dated June 14, 2016 issuing a reprimand.
Moore, Brayden (Corvallis) Property Manager 201205545, Stipulated Order dated June 14, 2016 issuing a reprimand with education.

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

England-Beringer, Shannon (Bend) Broker 201209648, Stipulated Order dated June 14, 2016 issuing a civil penalty of $100 for a late renewal.
Reece, Joshua (Veneta) Property Manager 201208572, Stipulated Order dated June 23, 2016 issuing a civil penalty of $1,600 for a late renewal.
O’Neal, Debra (Oakridge) Property Manager 201110063, Default Order dated June 30, 2016 issuing a civil penalty of $28,500 for unlicensed activity.
REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of
NICKOLAS SHIVERS

STIPULATED FINAL ORDER

The Real Estate Agency (OREA) and Nickolas Shivers (Shivers) do hereby agree and stipulate to the following:

FINDINGS OF FACT

CONCLUSIONS OF LAW.

1.

1.1 At all times mentioned herein, Shivers was licensed as a principal broker with Keller Williams Realty, Portland Central. Shivers was the principal broker of WestOne Properties Group operating under Keller Williams Realty, Portland Central.

1.2 On August 7, 2015, OREA Commissioner Gene Bentley (Bentley) observed a sign advertising WestOne Properties Group, on a lot located on the corner of Jefferson Parkway and Cervantes in Lake Oswego, Oregon. On August 13, 2015, Bentley emailed the pictures to OREA Regulations Manager, Sellina Barnes (Barnes). Included on the sign was the WestOne Properties Group name and logo, telephone number for WestOne Properties Group, and a link to Shivers' website. The sign did not identify Shivers and WestOne Properties Group as being associated with the registered business name, Keller Williams Realty, Portland Central. The WestOne Properties Group is not registered with OREA as a registered business name.

Violation: By allowing a directional sign to be placed in public advertising WestOne Property Group, without identifying the registered business name Keller Williams Realty, Portland Central, Shivers violated ORS 696.301(3) as it incorporates OAR 863-015-0125(2)(b)
which states advertising must be truthful and not deceptive or misleading. Additionally, Shivers violated OAR 863-015-0125(4) (5-5-2014 Edition), which requires the registered business name to be prominently displayed, immediately noticeable, and conspicuous in all advertising.

1.3 Shivers explained he did not put the signs out himself, but instead hired a sign company to handle the task. On January 14, 2016, Shivers stated he had gone to the sign company and removed all of his old signs out of inventory.

1.4 A review of Shivers' website, http://nickshivers.com, on December 11, 2015, identifies WestOne Properties as being Keller Williams #1 real estate team. On the website, Shivers failed to state that he is a licensee, licensed in the State of Oregon.

Violation: By publishing the website, www.nickshivers.com, without stating that he was a licensee, licensed in the State of Oregon, Shivers violated ORS 696.301(3) as it incorporates OAR 863-015-0125(9)(c) (5-5-2014 Edition), which requires for electronic advertising, a statement that the licensee is licensed in the State of Oregon on the first page of the advertisement.

1.5 On Shivers' website, all the team members of WestOne Properties Group were listed. The website failed to clearly state which members of the team were Oregon licensees and which were not. Several of the members listed on the team were not licensed in the State of Oregon as real estate licensees.

Violation: By listing team members on the website, www.nickshivers.com and not clearly stating which members are licensed in the State of Oregon and which ones are not licensed, Shivers violated ORS 696.301(3) as it incorporates OAR 863-015-0125(11)(c) (5-5-2014 Edition), which states for team advertising, 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.

1.6 On the www.nickshivers.com website, Niko Rivera is advertised as a real estate broker. Niko Rivera is not licensed in Oregon as a broker.
Violation: By listing Niko Rivera, an unlicensed individual as a real estate broker on www.nickshivers.com, Shivers violated ORS 696.301(3) as it incorporates OAR 863-015-0125(2)(b) (5-6-2014 Edition), which states advertising must be truthful and not deceptive or misleading.

1.7 On January 5, 2016, a second website advertising WestOne Properties Group, http://www.westonehomefinders.com, was found by clicking a link on http://www.nickshivers.com to search all homes. The link would take the user to http://www.westonehomefinders.com which contained a link to find agents. The link for the agents was http://www.westonehomefinders.com/agents. This webpage listed members of the WestOne Properties Group team as “Agents.” The list includes Heather Becker, Kevin Strasser, and Niko Rivera, all unlicensed individuals in Oregon.

1.8 In an email on January 14, 2016, Shivers stated he had removed the listing of his team members from www.nickshivers.com. A review of www.nickshivers.com on January 15, 2016, showed that the list of all the team members for WestOne Properties Group had been removed. A review of www.westonehomefinders.com on January 21, 2016, showed that Heather Becker and Niko Rivera were removed from the list of agents. However, Kevin Strasser was still on the list, and Dillon Triem had been added to the list and both individuals are unlicensed in Oregon.

Violation: By listing Heather Becker, Kevin Strasser, and Niko Rivera, all unlicensed Individuals in Oregon, and later adding Dillon Triem as agents on www.westonehomefinders.com, Shivers violated ORS 696.301(3) as it incorporates OAR 863-015-0125(2)(b) (5-6-2014 Edition), which states advertising must be truthful and not deceptive or misleading.

1.9 A copy of the WestOne Properties Group Facebook page, printed on August 13, 2015, did not show Shivers’ association with Keller Williams anywhere on the webpage. According to Shivers, the cover photo actually showed the Keller Williams registered business name on the lower portion of the sign, but that the picture got cut off. On January 14, 2016, the WestOne Properties Group Facebook page was reviewed again. The cover photo Shivers had referred to shows a WestOne Properties Group sign. At the bottom of the timeline, a complete picture including the Keller Williams logo did appear with the notation that WestOne
Properties Group had updated their cover photo on December 16, 2015.

Violation: By advertising on www.facebook.com under the name WestOne Properties Group and not including the registered business name, Keller Williams Realty, Portland Central, Shivers violated ORS 696.301(3) as it incorporates OAR 863-015-0125(4) (5-5-2014 Edition), which requires the registered business name to be prominently displayed, immediately noticeable, and conspicuous in all advertising.

1.10 On January 8, 2015, several videos published by Shivers and posted on YouTube were reviewed. In the videos, Shivers identified himself as being with WestOne Properties Group. Shivers did not identify himself as being associated with Keller Williams Realty, Portland Central. Shivers explained that the videos he publishes are posted on his blog, http://nickshivers.blogspot.com. Shivers said the homepage for his blog does identify his association with Keller Williams Realty, Portland Central and he never considered that the videos could be accessed through links other than by his blog.

Violation: By advertising under the name WestOne Properties Group in Internet videos without including the registered business name, Keller Williams Realty, Portland Central, Shivers violated ORS 696.301(3) as it incorporates OAR 863-015-0125(2)(b) (4-1-2013 Edition and 5-5-2014 Edition), which states advertising must be truthful and not deceptive or misleading. Additionally, Shivers violated ORS 696.301(3) as it incorporates OAR 863-015-0125(4) (5-6-2014 Edition), which requires the registered business name to be prominently displayed, immediately noticeable, and conspicuous in all advertising.

1.11 Shivers has received several administrative actions from OREA in the past. In November 2007, Shivers was issued a civil penalty for conducting professional real estate activity while his license was expired. In January 2010, Shivers received a reprimand. Lastly, in April 2010, Shivers' license was reprimanded again for several violations, including an advertising violation of OAR 863-0185-0125(2)(b), by using the name WestOne Properties LLC, without including the word, "team" or "group, when he was licensed with Keller Williams East Portland.

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4 of 6 -- Stipulated Final Order-- Nickolas Shivers
2.

2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301. Based on these violations a suspension is appropriate under ORS 696.396(2)(c)(D). According to ORS 696.396, OREA may suspend a real estate license if the material facts establish a violation of a ground for discipline under ORS 696.301 that repeats conduct or an act that is substantially similar to conduct or an act for which the real estate licensee was disciplined previously.

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

STIPULATION & WAIVER

I have read and reviewed the above findings of fact and conclusions of law which have been submitted to me by OREA and further, the order which follows hereafter. I understand that the findings of fact, conclusions of law and this stipulation and waiver embody the full and complete agreement and stipulation between OREA and me. I further understand that if I do not agree with this stipulation I have the right to request a hearing on this matter and to be represented by legal counsel at such a hearing. Hearings are conducted in accordance with the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily waive my rights to a hearing, to representation by legal counsel at such a hearing, and to judicial review of this matter.

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

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ORDER

IT IS HEREBY ORDERED that Shivers' principal broker license be suspended for 60 days. The suspension will be effective starting on December 1, 2016, and run consecutively through January 30, 2017.

IT IS SO STIPULATED:                      IT IS SO ORDERED:

NICKOLAS SHIVERS                          GENE BENTLEY

Real Estate Commissioner

Date 4-11-16                                Date 4-18-16

Date of Service: 4/10/2016
REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of

GORDON L. KING

STIPULATED FINAL ORDER

The Oregon Real Estate Agency (OREA) and Gordon L. King (King) do hereby agree and stipulate to the following:

FINDINGS OF FACT &
CONCLUSIONS OF LAW

1.1 At all times mentioned herein, King was licensed as a principal broker with Associated Properties, Inc.

1.2 On October 2, 2015, Sheri Terjeson (Terjeson) filed a complaint with OREA against King.

1.3 Terjeson hired King to manage her properties in 2008. King was recommended to Terjeson by her brother, Paul Terjeson, who was a broker working in King's office.

1.4 King ended up managing the following properties on behalf of Terjeson, 915 18th Street NE (18th Street Property), a 10 unit complex located at 1205 Oakhill SE, (Oakhill property), a 10 unit complex located at 420 Flying Squirrel Way (Flying Squirrel property), and an 11 unit complex at 127-177 Sunset Avenue (Sunset Avenue Property).

1.5 During the investigation Pierce asked King to provide a copy of the property management agreement for the 18th Street and Oakhill properties. At the time, King told Pierce there was no written property management agreements for the two properties. Later, during the settlement conference on April 1, 2016, King clarified he didn't remember that he had property management agreements for the two properties when Pierce asked him, but
later he recalled that he did indeed have the documents and was able to provide them to
OREA.

Violation: By failing to produce the property management agreement for the 18th Street
and Oakhill property during the investigation, King violated ORS 696.301(3) (2015 Edition) as it
incorporates ORS 696.280(3) (2015 Edition), which states records maintained under this
section must at all times be open for inspection by the Real Estate Commissioner or the
commissioner’s authorized representatives.

1.6 In her complaint, Terjeson alleged King mishandled the security deposits.

1.7 King told Pierce when he took over management of Terjeson’s properties he
never received any of the security deposits for the existing tenants from the previous property
manager or from Terjeson. King said he had several conversations with Terjeson in regards to
the security deposits and had requested them several times. King said he told Terjeson about
setting up a liability account for the security deposits. King said his accountant had suggested
setting up a liability account to list existing tenants’ security deposits. When a tenant moved
out and a refund of their security deposit was required, the check would be written out of the
clients’ trust account. King said the plan was for the liability account to be gradually offset by
the profits generated by Terjeson’s properties, but this never happened. King said he
suggested to Terjeson that she sell one of the properties to replace the security deposits he
never received. King said whenever Terjeson did sell a property she would use the proceeds
to buy another, instead of using the money to offset the missing security deposits.

1.8 Terjeson was asked if she recalled any conversations with King regarding the
need to set up a liability account on the owner’s ledger to handle the owner liability for the
security deposits being held. Terjeson replied she did not know anything about a liability
account until Spencer Taylor (Taylor), her new property manager, questioned why no security
deposits had been turned over by King. Terjeson said she had assumed King was holding the
security deposits in a separate client trust account, but had recently learned otherwise from
Taylor. Terjeson said Taylor explained to her the need to set up a liability account to keep
track of the security deposits that needed to be funded by Terjeson.

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1.9 Pierce asked King how he handled security deposits received from new tenants that moved in after he began managing Terjeson’s properties. King said as new tenants moved in, their deposits were put into the clients’ trust account designated for the property.

1.10 When Pierce reviewed King’s clients’ trust account records, the check registers showed that King was depositing tenant security deposits received from the tenants into the clients’ trust account. The security deposits were not transferred out to a security deposits account, and were not disbursed to Terjeson directly.

1.11 In an email dated, March 24, 2015, King wrote Taylor, informing Taylor that King did not keep a separate bank account for security deposits.

**Violation:** By receiving security deposits and failing to deposit and maintain them in a security deposit trust account King violated: OAR 863-025-0030(1) (11-15-07), which states except as provided in OAR 863-025-0025, all tenants’ security deposits received by a property manager shall be deposited and maintained in a security deposits account, and OAR 863-025-0030(1) (11-14-08, 1-1-09, 6-15-10, 4-15-11, 9-1-11, 9-14-11, 9-14-12, 4-1-13, 5-15-14 Editions), which states, except as provided in section (3) of this rule, all tenants’ security deposits received by a property manager must be deposited and maintained in a security deposits account.

**Violation:** By receiving security deposits on behalf of Sheri Terjeson, and failing to open and maintain a security deposits account, separate from the clients’ trust account, King violated OAR 863-025-0025(3) (11-15-07 Edition), which states except as provided in section (6) of this rule a property manager who receives a security deposits on behalf of an owner shall open and maintain a security deposits account, that is separate from the property manager’s clients’ trust account and OAR 863-025-0025(4) (11-14-08, 1-1-09, 6-15-10, 4-15-11, 9-1-11, 9-14-11, 9-14-12, 4-1-13, 5-15-14 Editions), which states except as provided in section (7) of this rule, a property manager who receives a security deposits on behalf of an owner must open and maintain a security deposits account, that is separate from the property manager’s clients’ trust account. King also violated OAR 863-025-0025(4) (11-15-07 Edition), which states except as provided in section (6) of this rule and OAR 863-025-0030, a property manager who receives a security deposit on behalf of an owner shall deposit a security deposit into the property manager’s security deposits account within five banking days after receipt.
and OAR 863-025-0025(5) (11-14-08, 1-1-09, 6-15-10, 4-15-11, 9-1-11, 9-14-11, 9-14-12, 4-1-
13, 5-15-14 Editions), which states that except as provided in section (7) of this rule and OAR
3 863-025-0030, a property manager who receives a security deposit on behalf of an owner
4 must deposit the security deposit into the property manager's security deposits account within
5 five banking days after receipt. King also violated ORS 696.890(3)(e) (2011 Edition) and ORS
6 696.890(4)(e) (2013 and 2015 Editions ), which states the property manager owes the property
7 owner the following affirmative duties: (e) To act in a fiduciary manner in all matters relating to
8 trust funds.
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10 2.
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12 2.1 OREA reserves the right to investigate and pursue additional complaints that
13 may be received in the future regarding this licensee.
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15 STIPULATION & WAIVER
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17 I have read and reviewed the above findings of fact and conclusions of law which have
18 been submitted to me by OREA and further, the order which follows hereafter. I understand
19 that the findings of fact, conclusions of law and this stipulation and waiver embody the full and
20 complete agreement and stipulation between OREA and me. I further understand that if I do
21 not agree with this stipulation I have the right to request a hearing on this matter and to be
22 represented by legal counsel at such a hearing. Hearings are conducted in accordance with
23 the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and
24 Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily
25 waive my rights to a hearing, to representation by legal counsel at such a hearing, and to
26 judicial review of this matter.
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28 I hereby agree and stipulate to the above findings of fact and conclusions of law and
29 understand that the order which follows hereafter may be completed and signed by the Real
30 Estate Commissioner or may be rejected by the Real Estate Commissioner. I understand that,
31 in accordance with the provisions of ORS 696.445(3), notice of this order shall be published in
32 the Oregon Real Estate News Journal.
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ORDER

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

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

IT IS SO STIPULATED:

GORDON L. KING

Date 5-23-16

IT IS SO ORDERED:

GENE BENTLEY
Real Estate Commissioner
Date 6-13-16

Date of service: 6-13-2016
REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of
LINDA J. MOODY

STIPULATED FINAL ORDER

The Oregon Real Estate Agency (OREA) and Linda J. Moody (Moody) do hereby agree
and stipulate to the following:

FINDINGS OF FACT
&
CONCLUSIONS OF LAW

1.

1.1 At all times mentioned herein, Moody was licensed as a principal broker doing
business under the registered business name Town & Country Realtors, Inc. (Town & Country)

1.2 On March 28, 2014, OREA received a complaint from Thomas Salyers (Salyers)
which involved several individuals, including Moody, and Debra Lynn O'Neal (O'Neal) who was
working for Moody at the time. OREA opened an investigation which was assigned to
Investigator/Auditor Meghan Lewis (Lewis).

1.3 On May 13, 2013, O'Neal signed an Independent Contractor's Agreement with
Moody. In the agreement O'Neal is identified as the “Property Manager.” At the time the
agreement was signed, O'Neal was unlicensed. O'Neal told Lewis she asked Moody if she
could conduct property management under Moody's principal broker license. O'Neal claimed
Moody agreed with the condition that O'Neal continue to work toward obtaining her property
manager license.

1.4 According to the Independent Contractor's Agreement, O'Neal received 70% of
the rental income as compensation for her management of rental real estate.

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1 of 6 – Stipulated Final Order- Linda J. Moody
1.5 Additionally, for the investigation, Moody provided a copy of Town and Country Realtors, Inc., “Office Policy,” which was incorporated into the Independent Contractor’s Agreement. Both the Independent Contractor’s Agreement and Office Policy were signed by O’Neal. Neither agreement contained the required delegations of authority for O’Neal to negotiate and sign property management agreements, review and approve reconciliations, review, and approve and accept tenant rental and lease agreements.

1.6 During the investigation, Moody told Lewis that O’Neal did all aspects of the property management, including negotiating, signing property management agreements and tenant lease agreements, collecting rent and deposits, conducting tenant relations, advertising, and directing maintenance. Moody also told Lewis that O’Neal negotiated the property management agreements, but Moody would review and sign the property management agreements in addition to O’Neal.

**Violation:** By allowing O’Neal, a non-licensed individual at the time, to sign property management agreements, Moody violated ORS 696.301(3) as it incorporates OAR 863-025-0020(6) (4-1-13, 5-15-14 Editions) which states only a property manager may negotiate and sign a property management agreement, except that a principal real estate broker engaging in the management of rental real estate may delegate such authority under OAR 863-025-0015(6) to a real estate licensee who is under the supervision and control for the principal real estate broker.

1.7 In his complaint, Salyers expressed his concerns to Moody about O’Neal’s professionalism and lack of license to conduct property management. Salyers wrote, “I was informed by Mrs. Moody that she would not perform any property management duties – that she had neither the time nor the resources to do so – that Debra would continue to be the property manager and Mrs. Moody would be an occasional go-between, but could not cut Debra out of the picture entirely.”

**Violation:** By allowing O’Neal, an unlicensed individual, to engage in activity with on or behalf of Town and Country, without having a proper delegation of authority in place, Moody violated ORS 696.301(3) as it incorporates ORS 696.315(1) (2013 and 2015 Edition) which states, a real estate licensee may not knowingly permit an unlicensed individual to engage in professional real estate activity with or on behalf of the licensee.
1.8 O'Neal conducted property management activity on Moody's behalf from an office identified as T&C located at 47763 Hwy. 58, Oakridge, OR. Moody conducted professional real estate activity from her registered main office located at 76615 High Prairie Road, Oakridge, OR. According to the OREA records, the T&C location at 47763 was not registered as a branch office.

Violation: By allowing O'Neal to conduct management of rental real estate at a location which was not a registered main or branch office, Moody violated ORS 696.301(3) as it incorporates ORS 696.200(5)(a) (2013 and 2015 Editions), which states, a principal broker shall register each branch office with the agency under a registered business name or the real estate licensee's licensed name.

1.9 During the investigation, Lewis reviewed O'Neal's business card, lawn sign and phone book advertisements relating to Town and Country's property management business. The advertisements failed to have the full registered business name properly displayed or be identifiable as advertising of a real estate licensee.

Violation: By advertising or allowing O'Neal to advertise for the property management business, without having the business name, Town & Country Realtors, Inc., properly identified or the name of the principal broker displayed, Moody violated ORS 696.301(3) as it incorporates OAR 863-015-0125(2)(a) (4-1-13 and 5-15-14 Edition), which states advertising must be identifiable as advertising of a real estate licensee, and OAR 863-015-0125(4) (4-1-13 and 5-15-14 Edition), which requires the licensed name or registered business name to be prominently displayed, immediately noticeable and conspicuous in all advertising.

1.10 In regards to the clients' trust accounts, Moody told Lewis that she gave O'Neal authority for two of three clients' trust accounts, which included security deposit account "Property Management CTA," account ending in #0803 (CTA #0803) and "Property Management CTA," ending in #0811 (CTA #0811). Lewis asked O'Neal if she was responsible for reconciling the clients' trust accounts. O'Neal told Lewis she reconciled the clients' trust accounts using the check register and bank statement. O'Neal said she struggled to understand how to complete a three-way reconciliation, and had reviewed the requirements in her pre-licensing study materials, but had yet to apply the practice to the reconciliations.:///
1.11 Lewis requested CTA reconciliations for the month of August 2014 for CTA 
#0803 and CTA #0811.

1.12 The first submittal of the reconciliation documentation for CTA #0811 showed 
Part I and Part II totals as $755.88 and Part III was entered as zero. Part IV, the amount of 
difference was blank. Missing from the reconciliation was the supporting documentation for 
Part II, ledger totals. The reconciliation form was signed and dated, September 29, 2014, by 
Moody and O’Neal.

1.13 A request for supporting documentation and missing information was emailed to 
O’Neal and Moody on September 30, 2014. OREA received faxed reconciliations on October 
2, 2014.

1.14 The second submittal for the August 2014 reconciliation for CTA #0811 showed 
Part I and II were entered as $755.88 and Part III was entered as $24,301.28. It appeared the 
balance for CTA #0803 was entered for Part III of CTA #0811. The reconciliation form was 
dated September 29, 2014, and signed by Moody and O’Neal.

1.15 A second request for supporting documentation was emailed to Moody and 
O’Neal on October 3, 2014. OREA received supporting documentation and corrected single 
reconciliation forms via fax on October 13, 2014.

1.16 The third submittal for the August 2014 reconciliation for CTA #0811 showed Part 
I, II, and III entered as $780.53. A review of the bank statement ending August 31, 2014, 
shows an overdraft fee of $28.00 charge to CTA #0811. This charge was indicated as a “Total 
Year-to-date.”

1.17 Part II, the check register, dated August 1-31, 2014, indicates an insufficient 
opening balance of -$1,528.42. A deposit of $902.00 increased the balance to -$626.42 on 
August 1, 2014. Multiple occasions show the balance at the close of a business day was 
negative, but brought positive once a deposit was made on the following business day. On 
August 22, 2014, the following disbursements caused consecutive negative balances:

- Check #2201 for $366.62 resulted in a balance of -$283.13.
- Check #2202 for $2,123.34 resulted in a balance of -$2,406.47
- Check #2204 for $40.00 caused resulted in a balance of -$2,446.47

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1.18 The ending balance for August 22, 2014, was -$283.13. On August 24, 2014, the ending balance for the day was -$2,446.47.

1.19 On August 25, 2014, a deposit of $902.00 brought the balance to -$1,544.47, however the end of the day balance was -$1,544.47. On August 28, 2014, a deposit of $2,525.00 resulted in a positive balance of $980.53.

Violation: By failing to complete the required reconciliation or ensure that the reconciliation was properly completed for CTA #0811, Moody violated ORS 696.301(3) as it incorporates OAR 863-025-0025(20) (4-1-13, 5-15-14 Editions), which requires a property manager to reconcile each clients' trust accounts, with the required three components, within 30 days of the date of the bank statement.

Violation: By failing to complete the required reconciliation or ensure that the reconciliation was properly completed for CTA #0803, Moody violated ORS 696.301(3) as it incorporates OAR 863-025-0025(21) (4-1-13, 5-15-14 Editions), which requires a property manager to reconcile each security deposit account, with the required three components, within 30 days of the date of the bank statement.

Violation: By allowing consecutive negative balances to occur on the check register for CTA #0811 for the dates of August 22, 24, and 25, 2014, Moody violated ORS 696.301(3) as it incorporates OAR 863-025-0040(7) (5-15-14 Edition), which states a record of receipts and disbursements or check register for a clients' trust account may show a negative balance during the course of a day only if the record or receipts and disbursements or check register shows a positive balance at the close of a day.

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

STIPULATION & WAIVER

I have read and reviewed the above findings of fact and conclusions of law which have been submitted to me by OREA and further, the order which follows hereafter. I understand that the findings of fact, conclusions of law and this stipulation and waiver embody the full and complete agreement and stipulation between OREA and me. I further understand that if I do not agree with this stipulation I have the right to request a hearing on this matter and to be
represented by legal counsel at such a hearing. Hearings are conducted in accordance with
the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and
Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily
waive my rights to a hearing, to representation by legal counsel at such a hearing, and to
judicial review of this matter.

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

ORDER

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

IT IS SO STIPULATED:

LINDA J. MOODY

Date 6-16-16

IT IS SO ORDERED:

GENE BENTLEY
Real Estate Commissioner
Date 6-14-16

Date of service: 6-14-2016
1. Brayden obtained his property manager license on May 23, 2013. On August 14, 2014, Moore registered Chateau Management, LLC (Chateau) with OREA and associated his license with Chateau.

2. Moore received a clients' trust account audit letter dated July 17, 2014, informing him that his clients' trust account ending in #0000 (CTA #0000) had been chosen for a mail in audit. The letter requested Moore submit to OREA, within 30 days of the date of the letter, a trust account reconciliation for March 2014 and provide supporting documentation.

3. On September 17, 2014, Moore submitted a spreadsheet with inconsistent owner ledger balances to OREA Compliance Specialist, Lindsey Nunes (Nunes). In his first submission Moore failed to submit bank statements or a single reconciliation form showing the three required components. Moore made several incomplete submissions of reconciliation documents to Nunes.

1.5 When Nunes arrived Moore was unable to provide the records Nunes requested. Moore told Nunes his property management records were incomplete and inaccurate because he did not have all his transactions entered, and owner and tenant ledgers were not up to date.

Violation: By failing to update and maintain required records and ledgers, Moore violated OAR 863-025-0035(1)(b), (c), (d), (f) and (j) (4-1-13, 5-15-14 Editions), which requires a property manager to keep complete and adequate records which must include, (b) clients’ trust account and security deposit account records, (c) an owner’s ledger for each property management agreement, (d) a record of receipts and disbursements or check register maintained for each clients’ trust account or security deposits account, (f) a tenant’s ledger for each tenant, and (j) records of the reconciliation of each clients’ trust account and security deposits account, including the reconciliation document.

1.6 Nunes learned from Moore he had never taken his earned management fees since becoming licensed in April 2013. Moore claimed he intended to take his compensation when his property management records were complete. Nunes requested a copy of Moore’s property management agreement, but Moore said he could not provide one for her. During a subsequent interview with OREA Investigator/Auditor Meghan Lewis (Lewis), Moore provided a copy of a property management agreement dated July 1, 2013, between Chateau Management and Mike Moore. The agreement was for property located at 6421 NW Oak Creek Dr. Studio, Corvallis, OR 97330. The agreement stated the following, “In the month in which rents are collected, Manager shall take management fees in the amount of 6% of the monthly gross receipts from the operation of the property during the period this Agreement remains in full force and effect.”

1.7 Moore admitted to Nunes he did not collect his management fees in the month which rents are collected. The copy of the property management agreement is signed and dated July 1, 2013, by Mike Moore, but is not signed and dated by Moore.

Violation: By failing to collect earned management fees, Moore violated OAR 863-025-0025(15) (4-1-13, 5-15-14 Editions), which requires a property manager to disburse earned management fees from the clients’ trust account at least once each month unless a different schedule of disbursement is specified in the property management agreement.

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Violation: By failing to sign the property management agreement dated July 1, 2013, as
the property manager, Moore violated OAR 863-025-0020(2)(l) (4-1-13 and 5-15-14 Editions),
which states, a property management agreement must include signatures of the property
manager, or a person authorized in section (6) of this rule, and the owner.

Violation: By using the name “Chateau Management” for the management of rental
real estate, when the name was not registered with OREA (the name registered with OREA is
Chateau Management, LLC), Moore violated, ORS 696.026(6) (2013 Edition) which states, a
principal real estate broker or licensed real estate property manager may conduct professional
real estate activity only under the name which the principal broker or property manager was
issued, or a registered business name.

1.8 On October 13, 2014, Moore called Nunes and told her his computer had
crashed and he had to re-create his property management records. Moore told Nunes what
she was asking of him was “impossible.”

Violation: By failing to properly maintain his electronic records, Moore violated OAR
863-025-0035(3)(a), and (b) (4-1-13, 5-15-14 Editions), which states, if a property manager
uses a computerized system for creating, maintaining, and producing required records and
reports; (a) the property manager must back up any data that is stored in the computerized
system at least once each month, and (b) posting of owners ledgers, records of receipts and
disbursements, tenants ledgers and manipulation of information must be maintained in a
format that will readily enable tracing and reconciliation.

1.9 On November 18, 2014, Nunes requested an update from Moore. Moore replied
and explained he was almost complete with his 2013 entries. In an email dated November 24,
2014, Moore wrote to Nunes he was almost complete with his 2014 entries. Nunes did not
receive further communication or a completed reconciliation with Moore.

1.10 On January 5, 2015, OREA opened an investigation.

1.11 On March 4, 2015, Lewis interviewed Moore.

1.12 In the March 4, 2015, interview Moore told Lewis that he used a computerized
software program for his records maintenance and production. Moore used an electronic
payment feature in the program for receiving into CTA #0000 tenants rent income and security
deposits into CTA #0000. Moore thought owner and tenant ledgers associated with the
payment would be automatically updated. Moore admitted he did not always remember to
correct or update receipts of funds in the owner and tenant ledgers.

1.13 Moore told Lewis he could not provide any monthly reconciliations for either CTA
#0000 or security deposit account ending in #0018 (CTA #0018). Moore explained he was not
caught up on his property management records for 2014, or 2015, but that he had completed
the banking and ledger entries into his computerized system for 2013.

1.14 Moore further stated once he had completed the data entry for the owner and
tenant ledgers he could possibly have a clients’ trust account reconciliation finished within
thirty days.

Violation: By failing to complete the required reconciliation for CTA #0000, Moore
violated OAR 863-025-0025(20) (4-1-13, 5-15-14 Edition), which requires a property manager
to reconcile each clients’ trust account containing the three required components, within 30
calendar days from the bank statement.

Violation: By failing to complete the required reconciliations for CTA #0018, Moore
violated OAR 863-025-0025(21) (4-1-13, 5-15-14 Edition), which requires a property manager
to reconcile each security deposits account containing the three required components within
30 calendar days of the bank statement.

1.15 Throughout the course of the investigation Lewis requested and reviewed a
number of Moore’s financial documents as he continued to work on his records and
reconciliations. Lewis found inconsistencies in the CTA #0018(security deposit account),
where Moore had provided spreadsheets containing tenant security deposits information.
Each spreadsheet contained a different ending balance, and the bank statement had an
entirely different ending balance.

1.16 Moore acknowledge the balance inconsistencies were likely due to the last and
first month’s rent deposited in to CTA #0018. He explained that online deposits made by the
tenant or single check often contained rental income and tenant security deposit funds. Moore
admitted he did not always remember to transfer the funds constituting the tenant security
deposit to CTA #0018, or the funds constituting rental income into CTA #0000.

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Violation: By failing to deposit tenant security deposits into the security deposits account within five banking days, Moore violated OAR 863-025-0025(5) (4-1-13, 5-15-14 Editions) which states, a property manager who receives a security deposit on behalf of an owner must deposit the security deposit into the property manager’s security deposit account within five banking days after receipt.

Violation: By failing to separate rental income from tenant security deposits when a tenant deposited a larger check containing both types of funds, Moore violated OAR 863-025-0030(2) (4-1-13, 5-15-14 Editions), which state, if a property manager receives a security deposit as part of a larger check containing funds other than security deposits, the property manager may deposit the check into a clients’ trust account of the property manager, however, the portion of funds constituting the security deposits must be deposited into the security deposits account within three banking days after deposit of the check into the clients’ trust account.

1.17 As previously discussed, Moore had not properly been recording security deposits that he received from tenants. Moore told Lewis, he would work on creating an accurate spreadsheet for an accounting of tenants security deposits held in CTA #0018. Moore said he then would transfer out funds determined to be rental income to be transferred into CTA #0000.

1.18 A review of Moore’s tenant agreements and corresponding tenant ledgers showed that Moore failed to specify the amount of and the reason for all funds paid by the tenant to the property manager including, but not limited to, funds for rent, refundable security deposits, and any fees or other charges.

1.19 A review of the tenant agreement for 223 NW 28th Street, Corvallis, Oregon specified the first month’s rent of $950.00, with first and last month’s rent due at the beginning of the lease period effective June 1, 2014; and specified a security deposit of $1,500.00 due at the time of signing the lease agreement.

1.20 According to the tenant ledger for the 223 NW 28th Street property, an entry for $950.00 July 1, 2014, was described as “Rent Income.” On June 1, 2014, an entry for $1,500.00, was described as “Security Deposits.” An entry for July 10, 2014 for $995.00 was recorded as, “Mgmt. Held- Last Month’s Rent.” The $45.00 difference between the rent of
$950.00 and $995.00 is not specified with a reason on the tenant agreement or ledger.

1.21 During the investigation Moore created a spreadsheet, “January 2015 Closing Balance SD Calculations,” to identify tenant funds held for the different properties he managed. On this spreadsheet, Moore identified $4,975.00 as pre-paid rent collected for tenants in the 223 NW 28th property on his spreadsheet. The $4,975.00 pre-paid rent was not reflected on the tenant ledger for the property as paid or received.

1.22 Tenant agreements for 2161 Janssen Street #102, Corvallis, Oregon, indicated that security deposits were to be charged and held by the Landlord. A review of the 2161 #102 tenant ledger did not show the $2,000 tenant security deposit charged or received.

Violation: By failing to record deposits and detailed information for the deposits received, Moore violated OAR 863-025-0050(4)(d)(A) and (B) (4-1-13 and 5-15-14 Editions), which requires a tenant’s ledger to contain the following for each deposits of funds: (A) amount of funds received, and (B) the purpose of the funds and identity of the person who tendered the funds.

1.23 All of the above demonstrate incompetent in performing acts for which Moore is required to hold a license.

Violation: ORS 696.301(12) (2013 and 2015 Editions), which states a real estate licensee’s real estate license can be disciplined if they have demonstrated incompetence in performing any act for which the licensee is required to hold a license.

1.24 On December 22, 2015, Moore attended a settlement conference. While at the conference he stated he corrected multiple of the violations noted above. He explained he had recently hired a bookkeeper to complete the required monthly reconciliations for CTA #0000 and CTA #0018. At the time of the conference Moore was working to correct entry errors from 2014, but was confident once this was done he could provide October 2015 and November 2015 monthly reconciliations no later than January 15, 2016.

1.25 Moore met the deadline of January 15, 2016 and included December 2015 reconciliations. A review of the reconciliations showed multiple outstanding transactions from 2014, including checks written to Chateau Management, past tenant and service providers, and electronic banking transfers remained on the reconciliation document. Moore and his bookkeeper explained the bank statements did not show these transactions, which indicated

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the transactions did not occur at the banking level and were likely computer entry errors.

1.26 A second deadline of February 10, 2016, was given to Moore to show "significant improvement" with his January 2016 reconciliations. Moore met the deadline and provided the required reconciliation documents. Supporting documentation indicated the majority of outstanding transactions appeared to be resolved, but a few checks to Chateau Management and electronic banking transactions from 2014 remained on the reconciliation.

1.27 On February 26, 2016, Moore had a conference call with OREA Regulations Manager, Selina Barnes and Lewis. Prior to the call, corrected January 2016 reconciliations were submitted by Moore, these reconciliations appeared to be in compliance.

2.

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

STIPULATION & WAIVER

I have read and reviewed the above findings of fact and conclusions of law which have been submitted to me by OREA and further, the order which follows hereafter. I understand that the findings of fact, conclusions of law and this stipulation and waiver embody the full and complete agreement and stipulation between OREA and me. I further understand that if I do not agree with this stipulation I have the right to request a hearing on this matter and to be represented by legal counsel at such a hearing. Hearings are conducted in accordance with the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily waive my rights to a hearing, to representation by legal counsel at such a hearing, and to judicial review of this matter.

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

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

IT IS FURTHER ORDERED that Moore complete the 27-hour Property Manager Advanced Practices course, (detailed in OAR 863-022-0022) within six months from the effective date of this order. Moore must submit documentation, such as certificate to OREA showing completion of the 27-hour Property Manager Advanced Practices course. This documentation must be submitted to OREA no later than 10 days after the education has been completed. The 27-hour Property Manager Advanced Practices course used to comply with this order may not be used as continuing education by Moore toward a license renewal.

IT IS SO STIPULATED:

BRADYDEN MICHAEL MOORE

Date June 6th, 2016

IT IS SO ORDERED:

GENE BENTLEY
Real Estate Commissioner
Date 6-14-16

Date of service: 6-16-2016
REAL ESTATE AGENCY

BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of Shannon England-Beringer's
Broker License

STIPULATED FINAL ORDER

The Oregon Real Estate Agency (OREA) and Sharon England-Beringer (England-Beringer) do hereby agree and stipulate to the following:

FINDINGS OF FACT

England-Beringer was licensed as a Broker with Assist2Sell Buyers & Sellers Realty Services. England-Beringer's license expired on January 1, 2016 and was not renewed until February 4, 2016. During the time England-Beringer's license was expired, January 1, 2016 to February 3, 2016, 34 days, England-Beringer continued conducting professional real estate activity as if actively licensed.

CONCLUSION OF LAW

By conducting professional real estate activity over the course of 34 days after England-Beringer's license expired and before renewing it, England-Beringer violated ORS 696.020(2) and is subject to discipline or civil penalty pursuant to ORS 696.990(4) and (9).

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.

ORDER

IT IS HEREBY ORDERED that pursuant to ORS 696.990(1) to (9) and based upon the violation set forth above, England-Beringer pay a civil penalty in the sum of $100.00, 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 accordance with ORS 696.990(4) and (9) in that each 30-day period of unlicensed activity is considered one violation. In this instance, there was one 30-day periods of unlicensed activity.

IT IS SO STIPULATED:

[Signature]
Shannon England-Beringer
Date 6/9/11

IT IS SO ORDERED:

[Signature]
GENE BENTLEY
Real Estate Commissioner
Date 6.14.11

DATE of service: 6-14-2011
REAL ESTATE AGENCY

BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of Joshua T. Reece's Property Manager License

STIPULATED FINAL ORDER

The Oregon Real Estate Agency (OREA) and Joshua T. Reece (Reece) do hereby agree and stipulate to the following:

FINDINGS OF FACT

Reece was licensed as a Property Manager with Empire Property Management LLC. Reece’s license expired on May 1, 2015 and was not renewed until January 20, 2016. In a written statement Reece stated he only conducting professional real estate activity during the months of June, July, August, and October 2015.

CONCLUSION OF LAW

By conducting professional real estate activity over the course of 123 days after Reece’s license expired and before renewing it, Reece violated ORS 696.020(2) and is subject to discipline or civil penalty pursuant to ORS 696.990(4) and (9).

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.

ORDER

IT IS HEREBY ORDERED that pursuant to ORS 696.990(1) to (9) and based upon the violation set forth above, Reece pay a civil penalty in the sum of $1,600.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to the OREA. The civil penalty is computed in accordance with ORS 696.990(4) and (9) in that each 30-day period of unlicensed activity is considered one violation. In this instance, there were four 30-day periods of unlicensed activity.

IT IS SO STIPULATED:

Joshua T. Reece

Date 6-18-2016

IT IS SO ORDERED:

GENE BENTLEY
Real Estate Commissioner

Date 6-23-14

DATE of service: 6-23-2016
REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Property Manager License
of
DEBRA LYNN O'NEAL

ORDER ON DEFAULT

1.

1.1 On March 31, 2016, the Real Estate Commissioner issued a notice of intent to
levy a civil penalty against Debra Lynn O'Neal (O'Neal). The notice of intent was served by
personal service by Oregon Real Estate Agency (OREA) Investigator/Auditor Meghan Lewis
(Lewis). Lewis served the notice of intent to O'Neal on March 31, 2016. Additionally, the
notice of intent was mailed via certified mail and regular first class mail in a handwritten
envelope on March 31, 2016.

1.2 The certified mailing of the notice of intent and the first class mailing were sent to
O'Neal at PO Box 714, Oakridge, OR 97463. 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 O'Neal's last known address of record with OREA was PO Box 714, Oakridge, OR 97463.

2.3 A certified mailing of the notice of intent was mailed to O'Neal at her last known address of record on March 31, 2016. The return receipt was signed for by Tim Taylor on April 4, 2016.

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 On March 28, 2014, OREA received a complaint from Thomas Salyers (Salyers) alleging that O'Neal engaged in property management activity without having a license to do so. OREA opened an investigation.

3.2 Prior to 2011, O'Neal lived in Minnesota, where she told OREA Investigator/Auditor Meghan Lewis (Lewis) she managed several rental communities for one owner for ten years. During that time, she did not have a professional license to lease, manage, or sell real estate. In 2011, O'Neal moved to Oregon and she became acquainted with Joy Kingsbury (Kingsbury), licensed principal broker and owner of Joy Kingsbury Inc. Real Estate Services, when Kingsbury rented O'Neal a home.

3.3 Kingsbury offered O'Neal a position as assistant property manager at Joy Kingsbury Real Estate Services. O'Neal and Kingsbury agreed once O'Neal obtained a license, O'Neal would purchase and assume ownership of the property management division of Joy Kingsbury Inc. Real Estate Services.
3.4 While working at Joy Kingsbury Inc. Real Estate Services, O'Neal negotiated tenant rental agreements, checked applicant or tenant references, conducted tenant relations, collected rent and security deposits and supervised her husband, Tim Taylor, for maintenance duties. O'Neal also did the bookkeeping for Joy Kingsbury Inc. Real Estate Services.

3.5 When Lewis asked Kingsbury to provide written polices and delegations of authority for O'Neal's property management activity Kingsbury was unable to provide the documents.

3.6 In 2012, Kingsbury outlined a Letter of Intent for O'Neal to purchase the property management business. In the Letter of Intent, signed November 8, 2012, Kingsbury wrote she intended to close the property management division and inform all current property owners of the proposed transfer to O'Neal with the provision O'Neal obtain a license to practice property management in Oregon. Kingsbury set the deadline for O'Neal to earn her property manager license and assume ownership of the property management division for April 1, 2013.

3.7 Kingsbury and O'Neal's working relationship became strained, and as of March 14, 2013, O'Neal had not obtained her property manager license.

3.8 On March 14, 2013, Kingsbury wrote to her clients (owners), "This is to announce that beginning May 1, 2013, I will close the Property Management portion of my business and confine my activities to Real Estate only. Debra O'Neal is applying to the State of Oregon for a license to operate independently and she expects to pass her examinations and have a license in hand by that date. She has been diligent and hardworking. She enjoys the work."

3.9 O'Neal contacted retired attorney, Glenn Null (Null), who on behalf of O'Neal wrote a letter to Kingsbury dated, March 18, 2013. In the letter Null wrote, "While April 1, 2013, is not likely for Ms. O'Neal to be able to obtain her license as set forth in the agreement, she has currently completed 22 of the 30 classes needed to obtain her property manager's license. Accordingly, this letter will confirm that Ms. O'Neal will have her license no later than May 1, 2013."

3.10 In a letter dated, April 1, 2013, Kingsbury informed her clients (tenants) she was closing the property management division of her business, and sometime prior to May 1, they would be notified by the "property owner or new manager Where [sic] you will pay your next month's rent and all other particulars."
3.11 As of May 1, 2013, O'Neal had not obtained her property manager license. In a
phone call with Lewis, O'Neal admitted taking property management agreements and tenant
lease agreements from Joy Kingsbury Inc. Real Estate Services. Kingsbury acknowledged
when she became aware of the missing records she determined she was done with the
property management business and things were “out of her hands.”

3.12 O'Neal contacted Linda Moody (Moody) at Town & Country Realtors, Inc., and
explained the circumstances. O'Neal acknowledged she asked Moody if she could conduct
property management under Moody’s principal broker license. O'Neal claimed Moody agreed
with the condition that O'Neal continue to work toward obtaining her property manager license.

3.13 On May 13, 2013, O'Neal signed an Independent Contractor’s Agreement with
Moody. In the agreement O'Neal is identified as the “Property Manager.”

3.14 According to the Independent Contractor’s Agreement, O'Neal received 70% of
the rental income as compensation for her management of rental real estate. Additionally,
Moody provided a copy of Town and Country Realtors, Inc., “Office Policy,” which was
incorporated into the Independent Contractor’s Agreement. Both the Independent Contractor’s
Agreement and Office Policy were signed by O'Neal. Neither agreement contained the
required delegations of authority for O'Neal to negotiate and sign property management
agreements, review and approve reconciliations, review, and approve and accept tenant rental
and lease agreements.

3.15 The Independent Contractor’s Agreement included the following language:
“Section 2.1 Property Manager may advertise under TOWN & COUNTRY
REALTORS, INC.’S name, provided TOWN & COUNTRY REALTORS, INC.,
name is always in the advertising as required by Oregon Law.
Section 2.2 Any expenses for attorney’s fees and other costs of settling a dispute
by property owners or tenants shall be the responsibility of the Property
Manager.
Section 2.3 The Principal Broker will assist the Property Manager in the conduct
of their work by giving advice and full cooperation on any matter or transaction
when so requested by the Property Manager.”
“Section 3.1 Property Manager will rent/lease properties to the best of his/her
abilities and will solicit additional clients for and on behalf of TOWN & COUNTRY REALTORS, INC., and otherwise promote the business of service to the public in property management activities."

"Section 7.1 The parties hereto specifically agree that Property Manager is an independent contractor and not an employee, servant or partner of TOWN & COUNTRY REALTORS, INC."

3.16 The “Office Policy” contained the following:

"ADVERTISING: Property Manager shall be responsible for any and all advertising necessary to satisfy property owners. Property Manager shall be responsible for purchasing their own business cards. Business cards must adhere to the TOWN & COUNTRY REALTORS, INC., standard.

Any advertising must be approved by the Principal Broker and done at the Property Manager’s own expense."

Under the heading “Broker Obligations” included the following terms:

“The Principal Broker will assist in any way necessary. Any and all transactions must, by Oregon Real Estate Law, be approved by Principal Broker and be on file at TOWN & COUNTRY REALTORS, INC., main office. This includes personal transactions.”

and

“The Property Manager will be responsible for depositing all rents from tenants in a timely fashion, and sending clients their rental checks in a timely fashion.”

3.17 O’Neal conducted property management activity from an office identified as T&C located at 47763 Hwy. 58, Oakridge, OR. Moody conducted professional real estate activity from her registered main office located at 76616 High Prairie Road, Oakridge, OR. According to the OREA records, the T&C location at 47763 Hwy 58 is not registered as a branch office.
3.18 During the investigation, Moody told Lewis that O’Neal did all aspects of the
property management, including negotiating, signing property management agreements and
tenant lease agreements, collecting rent and deposits, conducting tenant relations, advertising,
and directing maintenance. Moody also told Lewis that O’Neal negotiated the property
management agreement, but Moody did review and sign the property management agreement
in addition to O’Neal.

3.19 In his complaint Salyers expressed his concerns to Moody about O’Neal’s
professionalism and lack of license to conduct property management. In his complaint Salyers
wrote, “I was informed by Mrs. Moody that she would not perform any property management
duties – that she had neither the time nor the resources to do so – that Debra would continue
to be the property manager and Mrs. Moody would be an occasional go-between, but could not
cut Debra out of the picture entirely.”

3.20 In regards to clients’ trust accounts, Moody told Lewis that she gave O’Neal
authority for two of three clients’ trust accounts, which included “Property Management CTA,”
account ending in #0803 and “Property Management CTA,” ending in #0811. Lewis asked
O’Neal if she was responsible for reconciling the clients’ trust accounts. O’Neal told Lewis she
reconciled the clients’ trust accounts using the check register and bank statement.

3.21 During the investigation, Lewis reviewed O’Neil’s business card which contained
the words, “Property Rentals” prominently displayed, in the right hand corner were the words
“Property Management Town and Country.”

3.22 O’Neal negotiated and signed a month-to-month rental agreement with Salyers
for a rental on 76540 Bobbe Way, Oakridge, OR 97463 effective March 1, 2014.

3.23 OREA licensing records show O’Neal filed an application for a property manager
license on March 13, 2013, and had taken the property manager test four times without
obtaining a passing score.

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///
///
///
3.24 OREA records indicate OREA Business and Licensing Services Manager, Erika Kleiner gave O’Neal until May 7, 2014 to take and pass the licensing examinations using her current education which O’Neal was unable to do (applicants who completed pre-license education between July 1, 2002 and December 31, 2012, had until April 30, 2014 to obtain their license, after that date, applicants were required to complete the updated pre-license education.) On September 15, 2015, O’Neal passed the licensing exam.

3.25 On October 4, 2015, OREA received a fax which included a notice dated July 8, 2015, from Moody to her clients indicating as of October 1, 2015, Town & Country Realtors, Inc., would no longer be managing their property, and O’Neal would be opening her own company. In the fax, there were the following documents: 1) Articles of Incorporation from the Secretary of State of Oregon for Mountain Property Management, identifying O’Neal as the agent, signed August 24, 2015, 2) Internal Revenue Service Notice of Registration dated August 28, 2015, 3) letter dated October 2, 2015, from First Tech Credit Union notifying OREA O’Neal had submitted documentation to establish a business account, 4) a Department of Business and Consumer Affairs Registration, 5) an Internal Revenue Service notice Employer Identification Number dated August 24, 2015, and 6) an email dated June 25, 2015, from Janda Fleming of VP Training at Superior Schools, Inc. to Moody, which proclaimed O’Neal was working diligently on her pre-license property management course and O’Neal was “in a difficult position with actually running a Property Management [sic] company and studying for her exam.”

3.26 O’Neal obtained her real estate property manager license on October 23, 2015.

Violation: By conducting management of rental real estate activity from May 1, 2013 to October 22, 2015, without a license, O’Neal violated ORS 696.020(2) (2013 and 2015 Editions), which state an individual may not engage in, carry on, advertise or purport to engage in or carry on professional real estate activity, or act in the capacity of a real estate licensee, within this state unless the individual holds an active license.
ORDER

IT IS HEREBY ORDERED, pursuant to ORS 696.990 and based upon the violation set forth above, O'Neal pay a civil penalty in the sum of $28,500.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to OREA. The civil penalty is computed in accordance with ORS 696.990(4). In this instance, each month of unlicensed activity is one occurrence, for a total of 29 occurrences.

Dated this 30th day of June, 2016.

OREGON REAL ESTATE AGENCY

[Signature]

GENE BENTLEY
Real Estate Commissioner

Date of service: 6/30/2016

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.

8 of 8 – Order on Default-Debra Lynn O'Neal
REAL ESTATE BOARD
REGULATION DIVISION REPORT
August 1, 2016

Regulation Division Manager: Selina Barnes
Compliance Specialist 3 (Compliance Coordinator): Deanna Hewitt
Financial Investigators (Investigator-Auditor): Peter Bale, Jeremy Brooks, Aaron Grimes, Frances Hlawatsch, Philip Johnson, Meghan Lewis, Rob Pierce
Compliance Specialist 2: Carolyn Kalb
Compliance Specialists 1: Denise Lewis, Lindsey Nunes, Danette Rozell
Administrative Specialist: Janae Beaver

Division Overview

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

The Compliance Specialists are responsible for conducting: mail-in audits of licensee’s clients’ trust accounts (CTA), 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

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<th>Current Cases In Below Status</th>
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<th>Average Q2 2016</th>
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Janae Beaver was hired and started work as the Regulations Administrative Specialist on June 20, 2016. Janae was a licensed broker in Nebraska and has experience working for a property management company there. She also has worked for the Nebraska Public Service Commission and Lincoln (Nebraska) Public Schools. Janae has an Associate’s Degree in Business Administration.
Division Manager: Michael Hanifin

Section Overview:
The Land Development Division reviews and approves filings related to condominiums, timeshares, subdivisions, manufactured home subdivisions, and membership campgrounds. The section reviews and approves the documents creating these types of properties (as well as any later amendments) in order to verify compliance with statutory requirements. We also issue the informational Disclosure Statement required for the first sale of a condominium unit to the consumer, and a similar document, the Public Report, for sale of timeshare interests.

Workload and Activity Indicators

Filing activity in 2016 continues to exceed the five-year average and is comparable in volume to both 2011 and 2014.

Current Projects
Ongoing effort to improve upon division-specific website content, forms, and instructional materials.

Completed Projects
Create structure and content for division presence on the new website.
REAL ESTATE BOARD
ADMINISTRATIVE SERVICES DIVISION REPORT
August 1, 2016

Business & Technology Services Manager: Anna Higley
Accountant: Caty Karayel
Systems Administrator: Tiffani Miller
Customer Service Manager: Madeline Alvarado
Licensing Specialists: Tami Schemmel and Ruslan Putintsev
Receptionist: Sue Davenhill

Section Overview
The Administrative 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.

Budget Update
Revenue: The final revenue for the 13-15 biennium is $5.67 million. The Agency began the 13-15 biennium with a balance of $1.9 million (cash reserves). Five months of operating expenses total approximately $1.1 million. The Agency ended the biennium with a $1.0 million ending balance and has maintained the $1.0 million cash balance through the last fiscal year. Projected revenue for the 15-17 biennium is $6.25 million with a $7.16 million Legislative Approved Budget.

- Personal Services: Expected limitation $217,779.
- Services & Supplies: Expected limitation $43,052.
- Agency Budget – total expected savings of $260,831 of our limitation.

Licensing Statistics

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<th>Total Licenses:</th>
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<th>Mar</th>
<th>Apr</th>
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<td>TOTAL FACILITIES</td>
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<td>TOTAL INDIVIDUALS &amp; FACILITIES</td>
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<td>257</td>
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</table>
Peter Bale (Investigator/Auditor) has announced his retirement. His last day with OREA will be Friday, August 12, 2016.

Selina Barnes will be presenting “Tips for Staying Out of Trouble with the Agency” following this board meeting.

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