

Oregon Real Estate News-Journal

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Commissioner
Gene Bentley

Continuing Education: When You're Licensed in Two or More States

Gene Bentley, Real Estate Commissioner

If you hold real estate licenses in two or more states, you may wonder if the continuing education you took for one state can count for another.

Oregon certificate of attendance to you. The provider may require an additional fee to issue a certificate that meets Oregon's recordkeeping requirements. In most cases, a course you took for another state will not meet Oregon continuing education requirements.

For Oregon license renewals, only courses taken from Agency-certified continuing education providers count.

In a few cases, a course provider may be approved in one state **and** certified in Oregon. A course offered by such a provider may count in Oregon if:

- The course meets all the requirements for a continuing education course in Oregon, and
- The provider is willing to issue an

“For Oregon license renewals, only courses taken from Agency-certified continuing education providers count.”

Some states may accept Oregon continuing education courses. For example, Washington has a process that allows dual licensed Oregon-Washington licensees to submit Oregon courses for approval. (See [June 2015 issue](#) for more

information.)

If you have questions about whether another state will accept Oregon continuing education, please contact that state's real estate division, commission, or agency. ■



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Oregon Real Estate Board News

Hermanski and Rathbone Elected Chair and Vice Chair

Christopher Hermanski and **Coni Rathbone** were elected chairperson and vice-chairperson, respectively, at the August board meeting in Salem.



Christopher Hermanski

Mr. Hermanski is president and owner of Mainlander Property Management. He has been managing residential real estate in Portland and the surrounding areas since 1981.



Coni Rathbone

Ms. Rathbone is an attorney and shareholder in Zupancic Rathbone Law Group. She has practiced exclusively in real estate and corporate law for over 23 years.

The Agency congratulates Mr. Hermanski and Ms. Rathbone on their new roles.

Hendricks and LeFeber Complete Final Term

Byron Hendricks and **Robert LeFeber** have each finished their second four-year term on the Board.

Mr. Hendricks is president and principal broker for Berkshire Hathaway HomeServices Real Estate Professionals in Salem. He holds the CRB (Certified Real Estate Brokerage Manager) designation. Mr. Hendricks has served in leadership positions in the Oregon Asso-



Byron Hendricks

ciation of Realtors® and Oregon Real Estate Forms, Inc. In addition to serving as Board chair, he assisted the Agency by participating in several workgroups.

Mr. LeFeber is co-founder and principal broker for Commercial Realty Advisors Northwest, LLC. He is the past president of the Commercial Association of Realtors® of Oregon and southwest Washington, past State Director for the International Council of Shopping Centers, current chair of the Commercial Real Estate Economic Coalition, a member of the Real Estate Team for the Presbytery of the Cascades, and a member of the Urban Land Institute. Mr. LeFeber served as Board vice-chair, and also helped the Agency in a number of workgroups.

The Agency thanks Mr. Hendricks and Mr. LeFeber for their service to the Board and the state of Oregon.



Robert LeFeber

McLean and Koch Appointed

Alex McLean and **David J. "Dave" Koch** were appointed by Governor Kate Brown to fill the Board seats vacated by Mr. Hendricks and Mr. LeFeber.

Mr. McLean has been an active member in the commercial real estate industry for over 32 years after graduating from Oregon State University in 1983. His real estate career began at Norris Beggs & Simpson in 1983, where he was a retail broker for 13 years. In 1996, after leaving Norris Beggs & Simpson, he co-founded Commercial Realty Advisors NW, where he



Alex McLean

has served as a partner and Managing Broker for Washington for almost 20 years.

He is a member of a variety of organizations, including the International Council of Shopping Centers (ICSC), the Commercial Association of Brokers (CAB), and the Retail Brokers Network (RBN). In 2014, he served as President of CAB and has been an active member of the Board for the past six years.

Mr. McLean represents an extensive range of retailers and property owners, including Costco, WinCo, Fred Meyer, New Seasons Market, Jo-Ann Fabrics, Cabela's, and CarMax.

Mr. Koch, licensed in Oregon since 1976, is a principal broker with RE/MAX equity group. Most of his career has been as a managing broker with extensive experience in residential and rural real estate. He earned a bachelor's degree in economics from Oregon State University and an MBA in finance



Dave Koch

from Eastern New Mexico University. He is a Vietnam War veteran having served in the Air Force for nearly nine years.

Mr. Koch's real estate career began with Art Lutz and Company, Realtors, followed by seven years as designated broker and co-owner of Brokers Marketing Real Estate, Realtors, in Canby and Oregon City. Prior to joining RE/MAX he was affiliated with Coldwell Banker for over 11 years.

His responsibility with RE/MAX equity group began as a designated broker for Oregon and Washington and as Vice President responsible for the Closing Department, risk management, and dispute resolution. Later, he was named the managing broker of the Lake Oswego office.

His active support of the Realtor organization includes serving as president of the Clackamas County, Portland Metropolitan, and Oregon Associations of Realtors. He was also the founding president of the Regional Multiple Listing Service (RMLS) in 1990-91.

Dave and his wife, Valerie, are the proud parents of three grown children, Michael, Kristin, and Andrew, and seven extraordinary grandchildren. ■

Public Meeting

Oregon Real Estate Board Meeting in Coos Bay

Monday, December 7, 2015, 10:00 a.m.

***Red Lion Hotel Coos Bay
1313 N. Bayshore Drive***

EARN 3 HOURS OF CONTINUING EDUCATION if you [pre-register](#) with the Oregon Association of Realtors. *This meeting is open to the public, but you must register with OAR if you want continuing education hours.*

Broker and Principal Broker Affirmative Duties: Your Legal Obligations to Your Clients

In a real estate transaction, Oregon Real Estate License Law requires you to do certain things designed to serve the best interests of your clients. Your affirmative duties are specific to the role you play in the transaction.

Role as Seller's Agent

If you act under a listing agreement with the seller and only represent the seller, you are a seller's agent.

As a seller's agent, you have the following obligations to the seller, the buyer, and the buyer's agent:

- To deal honestly and in good faith.
- To present all written offers, notices, and other communications to and from the parties in a timely manner without regard to whether the property is subject to a contract for sale or the buyer is already a party to contract to purchase.
- To disclose material facts that you know about but are not apparent or readily ascertainable to a party. The following are not considered material facts by law (ORS 93.275):
 - The real property, or a neighboring property, was the site of a death by violent crime, by suicide, or by any other manner.
 - The real property, or a neighboring property, was the site of a crime, political activity, religious activity, or any other act or occurrence that does not adversely affect the physical condition of or title to real property.
 - That an owner or occupant of the real property has or had HIV or AIDS.
 - That a registered sex offender resides in the area
 - That a notice has been received that a neighboring property has been determined to be not fit for use under ORS 453.876.

You also owe the following affirmative duties to the seller:

1. To exercise reasonable care and diligence.
2. To account in a timely manner for money and property received from or on behalf of the seller.
3. To be loyal to the seller by not taking action that is adverse or detrimental to the seller's interest in a transaction.
4. To disclose in a timely manner to the seller any conflict of interest, existing or contemplated.
5. To advise the seller to seek expert advice on matters related to the transaction that are beyond the agent's expertise.
6. To maintain confidential information from or about the seller except under subpoena or court order, even after termination of the agency relationship.
7. Unless agreed otherwise in writing, to make a continuous, good faith effort to find a buyer for the property, except that a seller's agent is not required to seek additional offers to purchase the property while the property is subject to a contract for sale.

Except for #7 above, affirmative duties may not be waived.

You are allowed to show properties owned by other sellers to prospective buyers and may list competing properties for sale without breaching any affirmative duty to the seller.

You are not required to investigate matters that are outside the scope of your expertise, including but not limited to investigation of the condition of property, the legal status of the title, or the owner's past conformance with law, unless you or your principal broker agrees in writing to investigate a matter.

Role as Buyer's Agent

If you agree to act only as a buyer's agent, you do not represent the seller even if you are being compensated by the seller or the seller's agent.

As a buyer's agent, you have the following obligations to the buyer, the seller, and the seller's agent:

- To deal honestly and in good faith.
- To present all written offers, notices, and other communications to and from the parties in a timely manner without regard to whether the property is subject to a contract for sale or the buyer is already a party to contract to purchase.
- To disclose material facts that you know about but are not apparent or readily ascertainable to a party. The following are not considered material facts by law (Oregon Revised Statute 93.275):
 - The real property, or a neighboring property, was the site of a death by violent crime, by suicide, or by any other manner.
 - The real property, or a neighboring property, was the site of a crime, political activity, religious activity, or any other act or occurrence that does not adversely affect the physical condition of or title to real property.
 - That an owner or occupant of the real property has or had HIV or AIDS.
 - That a registered sex offender resides in the area.
 - That a notice has been received that a neighboring property has been determined to be not fit for use under ORS 453.876.

Additionally, you also owe the following affirmative duties to the buyer:

1. To exercise reasonable care and diligence.
2. To account in a timely manner for money and property received from or on behalf of the buyer.
3. To be loyal to the buyer by not taking action that is adverse or detrimental to the buyer's interest in a transaction.
4. To disclose in a timely manner to the buyer any conflict of interest, existing or contemplated.
5. To advise the buyer to seek expert advice on matters related to the transaction that are beyond the agent's expertise.
6. To maintain confidential information from or about the buyer except under subpoena or court order, even after termination of the agency relationship.

7. Unless agreed otherwise in writing, to make a continuous, good faith effort to find property for the buyer, except that a buyer's agent is not required to seek additional properties for the buyer while the buyer is subject to a contract for purchase or to show properties for which there is no written agreement to pay compensation to the buyer's agent.

Except for #7 above, affirmative duties may not be waived.

You may show properties in which the buyer is interested to other prospective buyers without breaching an affirmative duty to the buyer.

You are not required to investigate matters that are outside the scope of your expertise, including but not limited to investigation of the condition of property, the legal status of the title or the owner's past conformance with law, unless you or your principal broker agrees in writing to investigate a matter.

Disclosed Limited Agent (Dual Agency)

You may represent both the buyer and the seller in a real estate transaction as long as both parties agree by signing a disclosed limited agency agreement.

In addition to the affirmative duties listed above for both buyer's and seller's agents, you cannot disclose:

- To the buyer that the seller will accept a price lower or terms less favorable than the listing price or terms, except with written permission.
- To the seller that the buyer will pay a price greater or terms more favorable than the offering price or terms, except with written permission.
- Confidential information.
"Confidential information" means information communicated to you by the buyer or seller of one to four residential units regarding the real property transaction, including but not limited to price, terms, financial qualifications or motivation to buy or sell. "Confidential information" does not mean information that:
 - The buyer instructs you to disclose about the buyer to the seller or the
*Please see **Affirmative Action** on page 7*

*A message from the Oregon Health Insurance Marketplace,
part of the Oregon Department of Consumer and Business Services.*

Open Enrollment is Here!

It's time for Oregonians to sign up, renew or change their health insurance plans at HealthCare.gov. Open enrollment begins November 1 and goes through January 31, 2016. Visit HealthCare.gov now, or call 1-800-318-2596 (toll-free) (TTY: 1-855-889-4325).

If you don't have insurance, this is a great opportunity to get covered. Sign up by January 31. Otherwise, you may have to wait another year and could pay a penalty on your 2016 taxes.

If you bought insurance last year, now's the time to renew or change plans. Plans change every year, so first visit HealthCare.gov to see if there might be a plan that better meets your needs.

Financial help is available for many people. In fact, three out of every four Oregonians who signed up through HealthCare.gov last year qualified for financial help to pay for insurance. Come see if you qualify—you may be surprised.

Overwhelmed? Get free help to sign up from insurance agents and community organizations. Visit OregonHealthCare.gov or call 1-855-268-3767 (toll-free) to find help near you.

If you have problems after you sign up for insurance, please contact the Oregon Insurance Division. Visit www.oregon.gov/DCBS/Insurance/gethelp, call 1-888-877-4894, or [email cp.ins@oregon.gov](mailto:cp.ins@oregon.gov).

Brought to you by the State of Oregon. Nine out of 10 Oregonians now have health insurance. Our goal is to help even more people find plans that fit their needs.

Affirmative Duties

Continued from page 5

seller instructs you to disclose about the seller to the buyer.

- You know or should know that failure to disclose would constitute fraudulent representation.

If you and a fellow licensee work for the same principal broker, and you each represent a different party in the same transaction, only the supervising principal broker will be a disclosed limited agent. You will only represent the party you have an agency agreement with, and the other licensee will only represent the other party. In this situation, you, your principal broker, and the other agent have

additional affirmative duties:

- To disclose conflict of interest in writing to all parties.
- To take no action that is adverse or detrimental to either party's interest in the transaction.
- To obey the lawful instructions of both parties.

For further information, review ORS 696.805 - 696.815 and 93.275. If you have questions about your legal obligations and affirmative duties in a particular situation, you should contact your attorney. ■

Paper CE Record-Keeping Form No Longer Needed

Now that you can enter continuing education information into eLicense at any time, you no longer need to fill out and keep a paper Continuing Education Record-Keeping Form. Entry of continuing education course information into eLicense now meets the requirement found in OAR 863-020-0015.

You must still keep all certificates of attendance for three years after the license

renewal date for which the courses were used. The Agency conducts random audits of continuing education records. If you are selected to participate in an audit, you will have to send in copies of your continuing education records for review.

For more information on anytime continuing education entry, see the [August issue](#) of the *Oregon Real Estate News-Journal*. ■

Online TRID Guide Available from CFPB

The Consumer Financial Protection Bureau (CFPB) has created an [online guide](#) to help you explain the new TILA-RESPA Integrated Disclosure rule (TRID) to your clients.

The CFPB highlights five areas that will help you help your clients, ensuring smooth, on time closings.

- Steps to prepare your clients.
- The new disclosures forms.
- Seven facts about the mortgage process.
- The changes that require a 3-day review.
- CFPB resources to share with your client.

Visit the guide at <http://www.consumerfinance.gov/know-before-you-owe/real-estate-professionals/>. ■

Agency Staff Changes

Stacey Harrison has left the Oregon Real Estate Agency for a new opportunity in the private sector.

Ms. Harrison joined the Agency in 2008 as the Land Development Specialist. She was promoted to Education Division Manager in 2009, where she led the complete content revision of all pre-license and post-license courses and successfully implemented a new process for pre-license course approvals.

She is now CEO and Owner of A1 Superior Schools, Inc.

The Agency thanks Ms. Harrison for her service and wishes her well in her new endeavor. ■

Administrative Actions

March 19, 2015 through April 28, 2015

The Oregon Real Estate Agency is required by law to publish disciplinary actions. The final order for each action can be viewed by clicking on the individual names listed below.

Please note that there are individuals with real estate licenses that may have similar or the same names as those listed below, even in the same market area. If you are in doubt if an individual listed here is someone you know or with whom you are working, please contact the Agency for verification.

Stipulated settlements do not necessarily reflect all the factual violations initially alleged by the Agency. Sanctions may have been adjusted as part of the negotiation process. Such settlements may not, therefore, directly compare in severity/sanction with other cases.



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The Oregon Real Estate News-Journal is published by the Oregon Real Estate Agency as an educational service to all real estate licensees in the state under the provisions of Section 696.445 of the Oregon Revised Statutes.

Mesheal Heyman, Editor

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REVOCATIONS

[Anderson, Angela Mae](#) (Canby) Broker 200707125. Default order dated July 22, 2015.

[Jordan, Jeremy J.](#) (Beaverton) Principal Broker 200008175. Default order dated July 22, 2015.

[Smith, Kenneth J.](#) (Sherwood) Principal Broker 200008177. Default order dated July 22, 2015.

[Halvorson, John Olaf](#) (Rancho Santa Margarita, California) Principal Broker 200701035. Final order dated August 5, 2015.

CIVIL PENALTIES

Unlicensed Activity

[Hyde, Kelly Dee](#) (Klamath Falls) Principal Broker 201107019. Stipulated final order dated August 12, 2015, 2015, issuing a \$2500 Civil Penalty. ■

Agency Enters 21st Century with YouTube Channel

The Oregon Real Estate Agency has joined the video purveyors of epic drone landscapes, practical jokes, and cute cats to provide you another way to learn about real estate licensing in Oregon.

The Agency's first production explains the process of registering for an eLicense account. Visit the Agency's YouTube channel at <https://www.youtube.com/channel/UCOyh6h9EdPaYYwexggsx3g>. ■

