



Oregon

Kate Brown, Governor

AGENDA ITEM NO.

I.C.

Real Estate Agency

Equitable Center

530 Center St. NE, Suite 100

Salem, Oregon 97301-2505

Phone: (503) 378-4170

Regulations Fax: (503) 373-7153

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www.oregon.gov/rea

Notice of Agenda

OREGON REAL ESTATE BOARD

Regular Meeting Agenda - Zoom Videoconference

June 7, 2021

- I. BOARD BUSINESS - Chair MacLean**
 - A. Call to Order
 - B. Chair MacLean comments/Roll Call
 - C. Approval of the Agenda and Order of Business
 - D. Approval of 04.05.21, regular meeting minutes
 - E. Date of the Next Meeting: 08.02.21 to begin at 10am via Zoom videoconference
- II. PUBLIC COMMENT - Chair MacLean**
 - This time is set aside for persons wishing to address the Board on matters not on the agenda. Speakers will be limited to five minutes.
 - The Board Chair reserves the right to further limit or exclude repetitious or irrelevant presentations. If written material is included, 12 copies of all information to be distributed to board members should be given to the Board Liaison prior to the meeting.
 - Action will not be taken at this meeting on citizen comments. The Board, however, after hearing from interested citizens, may place items on a future agenda so proper notice may be given to all interested parties.
 - If no one wishes to comment, the next scheduled agenda item will be considered.
- III. REQUESTS FOR WAIVERS - Chair MacLean. Waiver request log.**
 - A. Michael Paluska
- IV. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER - Chair MacLean. None.**
- V. BOARD ADVICE/ACTION - Commissioner Strode. None.**
- VI. NEW BUSINESS - Commissioner Strode.**
- VII. COMMUNICATIONS - ADMINISTRATIVE ACTIONS SUMMARY - Chair MacLean**
- VIII. REPORTS - Chair MacLean**
 - A. Commissioner Strode
 - B. Agency division reports-Deputy Commissioner Higley
 1. Regulations, Rob Pierce
 2. Land Development, Michael Hanifin
 3. Administration, Mesheal Heyman
 4. Licensing and Education, Mesheal Heyman
- IX. ANNOUNCEMENTS - Chair MacLean.** Next board meeting: 08.02.21 to begin at 10am via Zoom videoconference
- X. ADJOURNMENT - Chair MacLean**
- XI. EXECUTIVE SESSION - Closed**
 - A. Pursuant to ORS 192.660(2)(h); ORS 192.660(2)(f); ORS 192.345(1); and ORS 192.355(9) for purposes of conferring with legal counsel concerning the rights and duties regarding the current *REX-Real Estate Exchange, Inc. v. Kate Brown, et al.* USDC Court Case No. 3:20-CV-02075-HZ litigation.

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



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OREGON REAL ESTATE BOARD

Regular Meeting Minutes – via Zoom

Oregon Real Estate Agency
Salem, OR 97301

Monday, April 5, 2021

BOARD MEMBERS PRESENT:

Marie Due
Debra Gisriel, late
Susan Glen
Jose Gonzalez
Dave Hamilton
Lawnae Hunter, Chair
Kim Hedding
Pat Ihnat
Alex MacLean, Vice Chair

OREA STAFF PRESENT:

Steve Strobe, Commissioner
Anna Higley, Deputy Commissioner
Maddy Alvarado, Customer Service Manager
Mesheal Heyman, Administrative Services Division Manager
Michael Hanifin, Land Development Manager
Meghan Lewis, Compliance Coordinator
Leandra Hagedorn, Board liaison

GUESTS PRESENT:

LaTasha Beal, Keller Williams Sunset Corridor
Robert Tessmer
Cheryle Clunes, Realty One Group Prestige
Barbara Geyer, Barbara Geyer Real Estate
Dave Malcolm, Malcolm Law LLC
Julie Hobbs, Keller Williams Realty Inc.
Donna Meeuwssen, Exp Realty
Dustin Miller, Windermere Realty Trust
Greg Sparks, American Property Management
Mark Wheeler, Roots Realty
Nicole Zdeb, Keller Williams Portland Premiere

I. BOARD BUSINESS – Chair MacLean

- A. Call to Order. Chair MacLean called the meeting to order at 10am.
- B. Chair MacLean comments/Roll Call.
- C. Approval of the Agenda and Order of Business.
- D. Approval of 02.01.21 regular meeting minutes.

MOTION TO APPROVE AGENDA AND ORDER OF BUSINESS BY SUSAN GLEN

SECOND BY DAVE HAMILTON

MOTION CARRIED BY UNANIMOUS VOTE

- E. Date of the Next Meeting: 04.05.21, to begin at 10am and will be held via Zoom video conference.

II. PUBLIC COMMENT – Chair MacLean. 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.

III. REQUEST FOR WAIVERS – Chair MacLean. Log.

- A. Robert Tessmer - David Malcolm, attorney for Mr. Tessmer explained Mr. Tessmer's qualifications qualifying him for the waiver request. Alex MacLean asked Mr. Malcolm to explain Mr. Tessmer's anticipated supervisory duties would be and Mr. Malcolm responded that Mr. Tessmer had no plans to hire brokers. Pat Ihnat summarized Mr. Tessmer's business plan as a sole proprietor shop, assisting buyers to find property. Debra Gisriel asked Mr. Tessmer is he currently held a brokers' license or taken the principal broker's course work and Mr. Malcolm responded that Mr. Tessmer did not hold a broker's license or taken the principal broker's coursework.

**MOTION TO APPROVE ROBERT TESSMER'S EXPERIENCE WAIVER REQUIREMENT REQUEST BY LAWNAE HUNTER
SECOND BY PAT IHNAT**

**MOTION CARRIED BY 6 AYES (ALEX MACLEAN, PAT IHNAT, MARIE DUE, KIM HEDDINGER, JOSE GONZALEZ, AND LAWNAE HUNTER)
AND 3 NAYS (DAVID HAMILTON, SUSAN GLEN, AND DEBRA GISRIEL)**

IV. BOARD ADVICE/ACTION – Commissioner Strode. None.

V. NEW BUSINESS - Commissioner Strode. None.

VI. COMMUNICATIONS - ADMINISTRATIVE ACTIONS SUMMARY - Chair MacLean

VII. REPORTS – Chair MacLean.

- A. Commissioner Strode
 - Budget update
 - Boards and commission diverse inclusion event sponsored by Governor Brown's office to be held April 28 – May 1, 2021
- B. Agency division report - Deputy Commissioner Higley
 1. Regulations, Meghan Lewis
 - Overview summary of information provided in written report
 2. Administrative Services Division, Mesheal Heyman
 - Overview summary of statistics and information provided in written division report
 - Budget update
 3. Land Development Division, Michael Hanifin
 - Overview of division function and summary of information provided in written report
 - Legislative update
 4. Education and Licensing, Maddy Alvarado
 - Overview of division function and summary of information provided in written report
 - Administrative Specialist 1 hire in process
 - 2021 advertising classes were launched and will be available throughout the year as interested hosts contact the Agency
 - The Agency will be forming a work group to review LARCC

Chair MacLean asked the board members to provide current market activity report in local areas

VIII. ANNOUNCEMENTS – Chair MacLean. Next board meeting: 08.02.21 to begin at 10am and will be held via Zoom video conference.

IX. ADJOURNMENT – Chair MacLean

Respectfully submitted,

Respectfully submitted,

STEVE STRODE, COMMISSIONER

ALEX MACLEAN, BOARD CHAIR

OREGON REAL ESTATE AGENCY – Experience Requirement Waiver Request Log (2018-2021)

<p>AGENDA ITEM NO. III.</p>
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DATE	NAME	LICENSE TYPE	APPROVED/DENIED	FACTS AND BOARD DISCUSSION
04.02.18	Ross Kelley	PB	Denied	<p>FACTS: Ross Kelley requests a waiver of experience to become a principal broker. Mr. Kelley explained his request was based on his legal experience on both residential and commercial real estate and also that his business model would be a small scale of commercial properties. Dave Koch asked Mr. Kelley about his attitude towards managing and Mr. Kelley responded that his goal would be to provide exemplary service and he has reviewed ORS Chapter 696. Mr. Koch asked Mr. Kelley if he had supervision experience and Mr. Kelley responded that has supervised paralegals, attorneys and in his current position as well. Alex MacLean asked Mr. Kelley if he has had any experience with day to day transaction activity and Mr. Kelley responded he has worked with many brokers as well as buyers and sellers.</p> <p>MOTION TO DENY MR. KELLEY’S REQUEST FOR WAIVER OF EXPERIENCE AND RECOMMEND MR. KELLEY MAKE HIS REQUEST AFTER ONE YEAR OF EXPERIENCE BY DAVE KOCH SECOND BY PAT IHNAT MOTION CARRIED BY UNANIMOUS VOTE</p>
06.04.18	Ryan McGraw	PB	Approved	<p>FACTS: Ryan McGraw requests experience waiver to become principal broker. Mr. McGraw appeared and explained the basis for his request for waiver was that he has practiced real estate law in some form for 9 years. He also explained that for the past 2 years he has been the equivalent to a principal broker in California, however, he relocated to Oregon and did not build the business in California. Mr. McGraw obtained his broker license in Oregon about a year ago and has handled some transactions but his goal was to build a residential property management business while continuing to sell homes. Dave Koch asked Mr. McGraw what supervisory experience he had. Mr. McGraw responded that for the last 6 years he has been responsible for supervising 22 staff in his current role. Dave Hamilton asked Mr. McGraw if he was operating as both realtor with a company and also the energy company. Mr. McGraw responded that he was operating as both. Commissioner Bentley clarified the area of concern for board members was Mr. McGraw his lack of experience in supervising new licensees and Mr. McGraw responded that he agreed with that concern and would only take on licensees that are fully experienced. Discussion: Alex MacLean stated although Mr. McGraw’s lack of experience with supervision was a concern Mr. MacLean was in support of approval of this motion. Mr. Koch asked Mr. McGraw to expand on his management process/experience and Mr. McGraw described how he has handled various personnel issues as a manager/supervisor. Jose Gonzalez also expressed his support for approval of this motion. Pat Ihnat asked Mr. McGraw how he handled lease negotiations and Mr. McGraw responded that he has been involved as supervising and also has used brokers.</p> <p>MOTION TO APPROVE RYAN MCGRAW’S REQUEST FOR WAIVER OF EXPERIENCE BY LAWNAE HUNTER SECOND BY PAT IHNAT MOTION CARRIED BY UNANIMOUS VOTE</p>
12.10.18	Joseph Edwards	PB	Withdrawn	<p>Joseph Edwards requests an experience waiver, Mr. Edwards contacted the agency to cancel his appearance due to unsafe road conditions.</p>
04.01.19	Ross Kelley	PB	Denied	<p>Ross Kelley requests experience requirement waiver. Chair Farley asked Mr. Kelley to expand on the basis of his request for a waiver. Mr. Kelley explained that since his appearance before the board about a year ago he had completed two transactions and had a listing pending. Mr. Kelley stated that becoming a principal broker would allow him to provide quality service to his clients and also open his own real estate brokerage firm.</p> <p>DISCUSSION: Alex MacLean expressed his appreciation to Mr. Kelley for appearing before the board for a second time and also encouraged him to continue gaining the required experience to become a principal broker. Jose Gonzalez explained that his personal experience of learning from principal brokers was instrumental for him in becoming a principal broker.</p> <p>MOTION TO DENY ROSS KELLEY’S REQUEST FOR WAIVER BY DEBRA GISRIEL SECOND BY DAVE HAMILTON</p>

6.3.19	Ruth Howard	PB	Approved	<p>MOTION CARRIED BY UNANIMOUS VOTE</p> <p>Ruth Howard requested a waiver of experience to become a principal broker. Howard appeared in person. Howard explained the basis for her request. Worked in real estate as a secretary for an office in 1980. Over the years she owned a small business and leased homes for a retirement community, She then got her real estate license. She was asked by the outgoing principal broker and the president of her current company to become the principal broker despite not having the required experience. Dave Koch asked if Laurie Thiel had comments. Thiel spoke on Howard's behalf. Koch recused himself from the vote, but recommended approval comments. Thiel spoke on Howard's behalf, Koch recused himself from the vote, but recommended approval of the request. Pat Ihnat commented that Koch is usually is the one that questions experience waiver requests) and that Koch's support is uncharacteristic. Howard explained how her leasing experience helped her in professional real estate. Lawnae commented favorable on Howard's background, Ihnat asked how many are in the office now. Howard responded 20. Lawnae asked about trust accounting experience. Debra Gisriel asked if there is another principal broker in the office who can step in, Thiel stated that there are licensees that who could meet the requirements but no one with the desire or skills to manage, Gisriel suggested that Howard take the Principal Broker Advanced Practices course and the Principal Broker Academy right away. Dave Hamilton asked question about transaction issues. Alex MacLean inquired about time line for Bill (current PB in the office) to mentor, number of deals occurring in office and experience of brokers in office. MacLean also asked how many RE/MAX offices are in Portland, where are management meetings held, if other RE/MAX management is available to her as a resource, and what her plans are for growing office. Koch commented on history of office. MacLean confirmed Bill is retiring from management of office, not from real estate business, and asked about Dave Koch's relationship with the office and RE/MAX. Ihnat commented when Howard obtains a principal broker license, she could leave RE/MAX and open her own office. Jef Farley commented on the shortcomings of the law requiring only three years of active licensed experience to obtain a principal broker license.</p> <p>DISCUSSION: Dave Hamilton commented he considers Dave Koch's recommendation. Lawnae agreed. Pat said leasing experience similar. Susan commented on past leasing experience and number of transactions completed.</p> <p>MOTION TO APPROVE RUTH HOWARD'S REQUEST FOR WAIVER OF EXPERIENCE BY PAT IHNAT. SECOND BY DEBRA GISRIEL.</p>
2.3.20	Christopher Ambrose	PB	Approved	<p>Christopher Ambrose, Mr. Ambrose explained that he had been practicing attorney with Ambrose Law Group and an active attorney for approximately 30 years. He also stated that he was one of three owners of Total Real Estate Group LLC, which is a residential brokerage based out of Bend and his waiver request is based on his hands on experience as well as working very closely with the principal broker employed at Total Real Estate Group. Mr. Ambrose reported his company closed approximately 70 ns last year, bringing in 55 million in sales and that he had worked with and assisted in the selection of software. Alex MacLean asked Mr. Ambrose how his becoming a principal broker would affect the current principal broker at the company. Mr. Ambrose explained that he would continue to work closely with the principal broker but focus on managing the office and allocating duties while principal broker would continue to produce. Dave Hamilton asked Mr. Ambrose is the current principal broker was a principal in the company and Mr. Ambrose stated current principal broker is not a principal in the company. Discussion: Pat Ihnat, Dave Hamilton and Kim Heddingler all stated that they advocated the approval of the Mr. Ambrose's waiver request based on his experience in both the legal and real estate industry. Ms. Heddingler asked Mr. Ambrose if his intention was to continue to practice law and Mr. Ambrose affirmed.</p> <p>MOTION TO APPROVE CHRISTOPHER AMBROSE'S WAIVER REQUEST BY ALEX MACLEAN SECOND BY PAT IHNAT MOTION CARRIED BY UNANIMOUS VOTE</p>
12.07.20	Jerry Jones	PB	DENIED	<p>Chair Hunter asked Mr Jones to explain the basis for his waiver request and he responded that he had held various business roles in the real estate industry, such as development projects, commercial management firm. He also explained that he wanted to expand to a brokerage firm and that having the principal broker designation would be a tremendous professional benefit. Susan Glen asked Mr Jones if he was aware of the 3 year requirement previously and re responded that he was aware of the requirement. Marie Due asked Mr. Jones if he had management experience. Mr. Jones explained that he had managed teams of 2 to 3 brokers and upwards of 20. Pat Ihnat stated that managing brokers requires dealing with substantive issues rather than broad management. Jose Gonzalez asked Mr. Jones what options were available to him if his waiver request were to be denied and Mr. Jones replied that the principal broker who plans on retiring would postpone his retirement if necessary.</p> <p>MOTION TO DENY JERRY JONES'S 3 YEAR EXPERIENCE WAIVER REQUEST BY ALEX MACLEAN SECOND BY MARIE DUE</p>

				MOTION CARRIED BY UNANIMOUS VOTE
12.07.20	Eric Zechenelly	PB		Chair Hunter asked Mr. Zechenelly to explain the basis for his waiver request and he responded that his family owns and operates multiple businesses relating to various areas of real estate, which he has been involved in since he was in high school. He also explained that he received a Master Degree in Real Estate Development from Portland State University. Alex MacLean asked Mr. Zechnelly who he would be managing and what type of business and he responded that the business was a manufactured home company involving commercial real estate transactions and he would be managing a couple of brokers. Pat Ihnat asked Mr. Zechnelley how he believed his degree weighed in on answering questions from brokers and he replied that many of the courses he took covered law/rule content along with transaction processes. DISCUSSION: Pat Ihnat stated although Mr. Zechnelley's experience was with manufactured homes, his course study and degree were impressive. Alex MacLean stated Mr. Zechnelley's would benefit from more management experience. MOTION TO DENY ERIC ZECHNELLEY'S 3 YEAR EXPERIENCE WAIVER REQUEST BY ALEX MACLEAN SECOND BY DAVE HAMILTON MOTION CARRIED BY UNANIMOUS VOTE
02.01.21	Robert Tessmer	PB	MOTION FAILED – TIE VOTE	Chair MacLean asked Mr. Tessmer to explain the basis for his waiver request and he responded that his career had consisted of property searches, purchasing, rebuilding, and renovating. He also explained that as a veteran his goals were to work with disabled veterans and assist them with finding homes. Pat Ihnat asked Mr. Tessmer to explain how his experience met with the waiver request requirements and he explained that he his experience included lease negotiations, writing leases, and contract management. Vice Chair Ihnat asked Mr. Tessmer if he planned to employ brokers and he responded that at some point he would be employing brokers. Lawnae Hunter asked Mr. Tessmer to provide a summary of his supervisory experience and he responded that he had vast experience with contract management and managing people with setting their career enhancement guidelines. Lawnae Hunter also asked Mr. Tessmer if he was familiar with the financial responsibilities required of a principal broker. Mr. Tessmer explained that he was familiar with the financial responsibilities. Dave Hamilton asked Mr. Tessmer what experience he had with overseeing several brokers and ensuring that they follow proper guidelines and he responded he would have a business plan in place to facilitate proper supervision. Discussion: Chair MacLean asked Mr. Tessmer to elaborate on his connection to Mr. Larkin. Mr. Tessmer explained that his relationship with Mr. Larkin was as a mentor and seeking his advice/input on certain situations. Susan Glen asked Mr. Tessmer if he had considered working under the supervision of a principal broker for a period of time and he responded that he would not work well in that type of setting or environment. MOTION TO APPROVE ROBERT TESSMER'S EXPERIENCE WAIVER REQUEST BY LAWNAE HUNTER SECOND BY PAT IHNAT MOTION FAILS BY TIE VOTE (AYES: LAWNAE HUNTER, SUSAN GLEN, PAT IHNAT, ALEX MACLEAN. NAYS: MARIE DUE, DEBRA GISRIEL, KIM HEDDINGER, DAVE HAMILTON)
02.01.21	Eric Zechenelly	PB	APPROVED	Eric Zechnelley - Mr. Zechenelly asked Chair MacLean the reason the board denied his previous waiver request on 12.7.20 and both Chair MacLean and Dave Hamilton responded that the reason for the denial was lack his of experience. Vice Chair Ihnat stated that she would be inclined to support Mr Zechenelly's waiver request based on his college degree. David Malcolm, attorney for Mr. Zechenelly, explained that he reviewed the last 5 years of waiver requests and board meeting minutes and determined that Mr. Zechenelly has met the requirements for to qualify for a waiver request. MOTION TO APPROVE ERIC ZECHNELLEY'S WAIVER REQUEST BY PAT IHNAT SECOND BY LAWNAE HUNTER MOTION CARRIED BY UNANIMOUS VOTE
04.05.21	Robert Tessmer	PB	APPROVED	Robert Tessmer - David Malcolm, attorney for Mr. Tessmer explained Mr. Tessmer's qualifications qualifying him for the waiver request. Alex MacLean asked Mr. Malcolm to explain Mr. Tessmer's anticipated supervisory duties would be and Mr. Malcolm responded that Mr. Tessmer had no plans to hire brokers. Pat Ihnat summarized Mr. Tessmer's business plan as a sole proprietor shop, assisting buyers to find property. Debra Gisriel asked Mr. Tessmer is he currently held a brokers' license or taken the principal broker's course work and Mr. Malcolm responded that Mr. Tessmer did not hold a broker's license or taken the principal broker's coursework. MOTION TO APPROVE ROBERT TESSMER'S EXPERIENCE WAIVER REQUIREMENT REQUEST BY LAWNAE HUNTER SECOND BY PAT IHNAT MOTION CARRIED BY 6 AYES (ALEX MACLEAN, PAT IHNAT, MARIE DUE, KIM HEDDINGER, JOSE GONZALEZ, AND LAWNAE HUNTER) AND 3 NAYS (DAVID HAMILTON, SUSAN GLEN, AND DEBRA GISRIEL)
06.07.21	Michael Paluska	PB		

Oregon Real Estate Board

Experience Requirement Waiver Request

Date: 4-30-2021
 Name: Michael J. Paluska
 Address: 1820 Commercial Street SE, Salem, OR 97302
 Daytime Phone Number: 503-585-2066 Oregon License Number: 20/219516

GENERAL INFORMATION AND DOCUMENTATION

- I am seeking an experience requirement waiver to become a real estate PRINCIPAL BROKER. (ORS 696.022 and OAR 863-014-0040)
- I am currently licensed as a real estate broker in Oregon: Yes ___ No X
 If yes, please state the dates for which you held an Oregon real estate license: _____ to _____
 Was your Oregon license obtained through a reciprocal agreement with another state? Yes ___ No ___
- I am currently licensed or have held a real estate license in another state that was issued by the state's licensing authority: Yes ___ No X. Indicate the following

Type of License	State Issued	Dates Active License Held	
		From:	To
		From:	To
		From:	To
		From:	To

4. Per OAR 863-014-0040 and OAR 863-014-0042, I have:

	Yes	No	Date Completed	Additional Required Information	Agency Use Only
Completed the "Broker Administration and Sales Supervision" course for principal real estate brokers. Must be completed PRIOR to waiver request.	<u>X</u>		<u>3/15/2021</u>	Attach original course certificate.	
Submitted the Real Estate License Application for Principal Broker license and \$300 fee. Must be completed PRIOR to waiver request.	<u>X</u>		<u>10/16/2016</u>	Attach copy of confirmation letter from Agency.	
Successfully passed the Oregon Principal Broker exam. Must be completed PRIOR to waiver request.	<u>X</u>		<u>3/23/2021</u>	National Score: <u>65</u> State Score: <u>41</u>	
Graduated from a four-year college or university with a degree in real estate curriculum approved by the Commissioner.(863-014-0042)				Attach official transcript to request, if any.	
Graduated with a two-year community college associates degree in real estate curriculum approved by the Commissioner. (863-014-0042)				Attach official transcript, if any.	
Substantial real estate-related experience equivalent to at least 3 years active licensed experience. Include any real estate designations achieved. (OAR 863-014-0042)	<u>X</u>			Attach a written details about your additional real estate experience that would assist in the Board's consideration of your waiver request.	

	Yes	No	Date Completed	Additional Required Information	Agency Use Only
Included the number and type of real estate transactions (listings and transactions that were closed) I have completed while holding a real estate license in Oregon or in another state.				Attach a document showing the number and types of transactions you have completed while licensed, if any.	

REQUIRED DOCUMENTS

Listed below are the required documents to be included in the request for an experience waiver.

1. Your letter requesting a waiver of the three year active licensed experience. This letter should:
 - o State the reason for the request, including the compelling reason why you cannot wait to complete the three years of active licensed experience.
 - o Indicate the real estate experience you have that would be an acceptable substitute for the three years of required experience.
 - o Explain how you obtained the knowledge and expertise to adequately manage a real estate business, which includes supervising Oregon real estate licensees and handling clients' trust accounts.
2. Required documentation listed above in the General Information and Documentation section #4.

HELPFUL DOCUMENTS

The following information is helpful, but not required, for the Board to thoroughly evaluate your request:

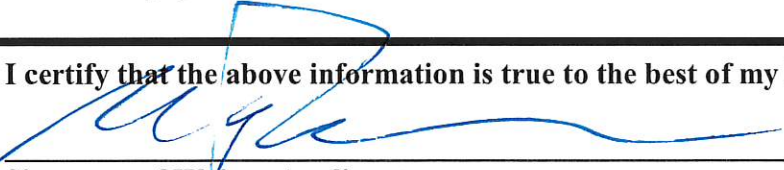

- o Letters of reference pertaining to your real estate experience
- o Letters of reference from current or past supervising principal brokers
- o Supervisory experience
- o Familiarity and experience in other related industries: escrow, title, mortgage, etc.

OTHER REQUIREMENTS

- You will be required to attend the Oregon Real Estate Board meeting when this waiver is discussed. The Board schedule will be communicated in follow-up correspondence upon receipt of your documents.
- Be prepared to answer questions from the Board to support your request.
- Waiver requests must be received at the agency no less than 21 days before the board meets.
- You must email all documents, including this completed and signed "Experience Requirement Waiver Request," to madeline.c.alvarado@oregon.gov.

IMPORTANT NOTE: All documents submitted become part of the Board Packet and, therefore, public record. The Agency highly recommends that you remove/redact any confidential information on your documents, such as your social security number, date of birth, and credit card information. Please do not put the packet into any type of folder or binding.

Please direct any questions to Madeline Alvarado at 971-719-3406 or madeline.c.alvarado@oregon.gov.

I certify that the above information is true to the best of my knowledge.	
 _____ Signature of Waiver Applicant	 _____ Date

2021 BOARD MEETING DATES

<u>MEETING DATE</u>	<u>LOCATION</u>	<u>WAIVER PACKET DUE DATE</u>
February 1, 2021	Videoconference	January 11, 2021
April 5, 2021	Videoconference	March 15, 2021
June 7, 2021	Videoconference	May 17, 2021
August 2, 2021	Videoconference	July 12, 2021
October 4, 2021	Videoconference	September 13, 2021
December 6, 2021	Videoconference	November 15, 2021

**Michael J.
Paluska**

Professional Corporation

Attorney at Law

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Salem, Oregon 97302

Tel: 503.585.2066
Fax: 503.585.2086

www.paluskapc.com

By Email Only
madeline.c.alvarado@oregon.gov

April 30, 2021

Oregon Real Estate Agency
Oregon Real Estate Board
530 Center Street NE, Suite 100
Salem, OR 97301

**Re: Documentation in Support of a Waiver of Three-Year Active Licensed
Experience**

Ladies and Gentlemen:

This letter is with regard to my request to have a complete waiver of the three-year active licensed experience, which is contained in ORS 696.022, and OAR 863-014-0040. This letter includes a resumé describing my education, post graduate education, related real estate work experience, and employment.

My education with regard to real estate began during and throughout law school, and continued after law school with numerous real estate classes. I have also helped educate Oregon real estate licensees by teaching a continuing education class at the request of an Oregon Principal Broker, who is a client of my law firm.

As you can see from my resumé, I have been in a private practice of law for over twenty-five (25) years, specializing in residential and commercial real estate transactions, as well as business transactional law. For the past twenty-three (23) years, I have owned and operated my own law firm, and have employed and managed numerous employees and an attorney. As you can also see from my resumé, I have also owned and operated an Internal Revenue Code Section 1031 Exchange facilitator company, which helped both commercial and residential clients facilitate Internal Revenue Code Section 1031 Exchanges. This business also had employees, who I managed.

Throughout my twenty-five (25) years of practicing real estate law and operating the 1031 Exchange facilitator company, I obtained a vast knowledge and expertise of both residential and commercial real estate transactions, and real estate law, which involves easements, deed restrictions, CC&Rs, liens, 1031 exchanges, residential leases, commercial leases, residential sales, and commercial sales; drafting and/or reviewing promissory notes, land sale contracts, and trust deeds; opening escrow, reviewing preliminary title reports, obtaining title insurance, reviewing closing statements for both sellers and buyers, preparing closing instructions for escrow, helping set up collection escrow accounts for clients, drafting deeds, and assisting escrow officers

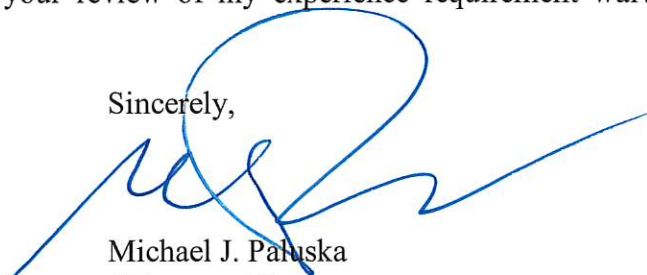
with closing transactions. I believe that the knowledge and expertise that I gained through my education and throughout my career as both an attorney and an owner of a 1031 Exchange facilitator company would be an acceptable substitute for the three (3) years of experience that is required for a real estate broker to be a Principal Broker.

I believe that the ownership and management of my law firm for over twenty-three (23) years, and the ownership and management of my 1031 Exchange facilitator company for over three (3) years, will greatly benefit me and allow me to successfully manage real estate licensees and my real estate brokerage. My law firm and 1031 Exchange facilitator company also required me to supervise many different employees, and I believe that this supervision experience would again allow me to supervise and support both my administrative staff and real estate licensees that will work for my real estate brokerage. Throughout the time that I have owned and managed my law firm, I also have managed and supervised another attorney; that relationship has been very successful, and again is another example of both my management and supervision ability. Both my law firm and my 1031 Exchange facilitator company had client trust accounts that I have successfully handled. The Oregon State Bar has very strict ethical rules with regard to client trust accounts, which I have successfully complied with throughout my entire career. My 1031 Exchange facilitator company, at times, had close to Twenty Million Dollars and No/100 (\$20,000,000.00) in my client trust account, which I successfully handled for my clients. The thousands of transactions that I have worked on throughout my career, at both my law firm and 1031 Exchange facilitator company, have provided me with great familiarity and experience in mortgage companies, lending institutions, survey companies, engineering companies, construction companies, environmental companies, government agencies (including city, county, state, and federal), title insurance companies, 1031 exchange facilitator companies, and escrow companies.

The reason that I am requesting a complete waiver of the three-year active licensed experience is based on my extensive experience and knowledge in both residential and commercial real estate transactions, the management and supervision of employees, the successful operating of my law firm and 1031 Exchange facilitator company, and the proper supervision of the client trust accounts for both my law firm and 1031 Exchange facilitator company. I do not believe that being supervised by a Principal Broker for any period of time would provide clients with any additional benefits, or provide me with any additional needed experience, knowledge, management, or supervision skills required to be a successful Principal Broker, or operate my real estate brokerage.

Please accept my appreciation for your review of my experience requirement waiver request.

Sincerely,



Michael J. Paluska
Attorney at Law

Enclosures (1)
mjp/je

Michael J. Paluska
Attorney at Law
1820 Commercial Street S.E.
Salem, Oregon 97302

Education

Doctor of Jurisprudence (JD)
University of Oregon School of Law
Eugene, Oregon
1992 - 1995

Bachelor of Business Administration (*Magna Cum Laude*)
University of Portland
Portland, Oregon
1987 - 1991

Post Graduate Education

Oregon State Bar - Continuing Legal Education

Real Estate Licensing Practice
2019

Different Types of Surveys and How to Read Them
2019

Digital Tools for the Dirt Lawyer
2019

Advising Residential Developers: Navigating ORS 94,
Washington's WUCIOA, and Federal Law
2019

Tips for Landlord-Tenant Trials
2019

Land Use 101 for Real Estate Lawyers
2019

Climate Change: What's Done and To Be Done in Real Estate
And Land Use Law in Oregon
2019

Senate Bill 608 Explained
2019

Considerations Specific to Leasing and Siting Wireless Facilities
2018

Tips in Property Tax and Condemnation
2018

The New Tax Law – What Real Estate Lawyer's Need to Know
2018

Drainage 101 – Gravity and Real Estate
2018

Arbitration: What You Thought You Knew But Didn't	2018
Adverse Possession? Prescriptive Easements? Here's the What, Where, When, Why, and How	2018
"You told her what?" The Ethics of Maintaining Privilege & Confidentiality When Working with Consultants?	2018
Retail Leasing and the Online Economy: Business Reality Meets "Old School" Retail Concepts	2018
Working with Home Contractors: Residential Remodeling Contracts	2018
HOA Regulations – Alternative Energy Exemptions and Other Legislative Changes	2018
Helping Our Marginalized Clients Access Justice: Better Representation Through Equity	2018
Help, I've Never Done This Before! A "How to" Guide for Common Land Use Applications	2017
Two Perspectives on Commercial Loan Documents	2017
Using the Needed Housing Statute – Recent Developments	2017
CC&Rs: How Long, How High, and How Far	2017
New Wrinkles in Regulating Old Buildings	2017
The "Stoned Age" – Water Rights in the Cannabis Epoch	2017
Application of Recreational Immunity	2017
Short-Term Rentals – Policies for Regulating	2017
Infrastructure Planning – ODOT's Process	2017
Affordable Housing Finance Options	2017
Twenty Years Perspective of Oregon DEQ Prospective Purchaser Agreements	2016
Where Are We? – Sign Regulation After Reed v. Town of Gilbert	2016

Tax/Accounting Update – Are Your Agreements Ready for the New Rules?	2016
Private Money Lending in Oregon – It Doesn’t Have to Be “Hard Money”!	2016
Joint Ventures and Finance Agreements	2016
Reaching NOAA’s Ark – Implementing ESA BiOp Requirements in Oregon Floodplains	2016
Replatting and Remainder Parcels for Condominium Projects	2016
Evolution in Case Law and Policy under the Fair Housing Act’s Duty to Affirmatively Furthering Fair Housing in Oregon and Beyond	2016
Marijuana in Oregon - Real Estate and Land Use	2015
Developing Land for Wineries: The California Perspective	2015
Metes and Bounds of Real Estate and Land Use Law	2012
Fundamentals of Real Estate & Land Use	2009
Real Estate: Legal Tools for Future	2009
10 Things Every Lawyer Should Know About Oregon’s Land Use System	2008
Easements	2008
Local Land Use Hearing Pointers	2008
Navigating the Land Use Process Before a Hearing’s Officer - The Development Perspective	2008
Landlord and Tenant Perspectives in Commercial Leasing	2008
Current Issues in Bankruptcy and Real Estate	2008
Topics Involving Real Estate in Business Bankruptcies and Workouts	2008
How to Use Experts in Land Use Hearings	2008

Negotiating the Purchase and Sale Agreement in Commercial Real Estate Transactions – Differing Viewpoints from the Seller’s and Buyer’s Perspective	2008
Land Use Board of Appeals – Practitioner Perspective	2008
Land Use Board of Appeals Confidential: How to Win Cases and Influence Board Members	2008
Real Estate 2007: Legal Tools for the Future	2007
Measure 49 Explained	2007
Environmental Law Aspects of Real Estate	2002
New Guidance on Section 1031 Exchanges	2001
Hot Topics for Commercial Real Estate Practice	1999
Organizational Structure (Commercial Real Estate)	1999
Transactional Tips for Environmental Problems	1999
Standard Leasing Language Exposed	1999
Doing Well by Doing Good (Conservation Easements, Affordable Housing, Section 1031 Exchanges)	1999
Commercial Real Estate Transactions	1997
Bankruptcy and Real Estate Issues	1996
Dissolutions and Real Estate Issues	1996
Foreclosure Guarantees	1996
Foreclosures	1996
Covenants, Conditions, Restrictions and Home Associations	1996
Representing Agents and Brokers, Ethical Concerns	1996

Related Work Experience

Representing Real Estate Licensee’s 1996 - Present

Throughout my career, I have represented real estate licensee's with advice regarding: buying, selling, leasing, managing, environmental, construction, tax issues, land use issues, dispute resolution, easements, corporation formations, limited liability company formations, escrow, deeds, title issues, CC&R's, Home Owner's Associations, and financing. During this time, I also helped advise our mutual clients with various real estate issues involved in their transactions. These issues included providing advice on the Letters of Intent for both purchasing and selling property, helping our clients with landlord and tenant issues, working with accountants on complex tax issues, working with estate planning lawyers with regard to succession planning, and working with title companies with regard to opening escrow, reviewing the preliminary title report, and helping coordinate closing.

Representing Real Estate Clients

1996 - Present

I have represented real estate client's, throughout my career, with advice regarding: buying, selling, commercial leasing for landlords, commercial leasing for tenants, residential leasing for landlords, residential leasing for tenants, property management, environmental, construction, tax issues, land use issues, dispute resolution, easements, water rights, limited liability company formations, escrow, deeds, title issues, cell towers, joint well agreements, farm leases, CC&R's, Home Owner's Associations, commercial financing, and residential financing, with both commercial lenders and private financing.

Real Estate Escrow and Closing

1996 - Present

I have and continue to work with both individual and corporate clients, accountants, real estate agents, mortgage brokers, bankers, escrow officers, title officers, attorneys, and government agencies in all aspects of escrow and closing for both residential real estate and commercial real estate transactions. I assist my clients in opening escrow for their transaction. This involves working directly with escrow agents and title companies to ensure that the transaction is opened correctly, and helping explain the details of the transaction so that they are understood by the escrow agent. Additionally, I assist my clients in the review of their preliminary title report, the related special exceptions, and review of any UCC-1, security filings, if any personal property is involved in the transaction. If a special exception warrants removal, I will work with both the title company, and the attorneys involved, to get the special exception removed. I work with my clients to ensure that they understand their preliminary title report, and how the special exceptions effect their property. Depending on the transaction, I will either prepare the deed for the real property, or review the deed prepared by either the title company or the other attorney. To help ensure that the transaction

successfully closes, I draft escrow closing instructions, review closing statements, and help coordinate the setup of any collection escrows.

Internal Revenue Code Section 1031 Exchanges 1996 - Present

Throughout my career, I have legally advised both individual and corporate clients, accountants, real estate agents, mortgage brokers, bankers, escrow officers, and attorneys in all aspects of Internal Revenue Code Section 1031 Exchanges. This work includes drafting the necessary language in the sale agreements, working with my client's accountant to determine if an Internal Revenue Code Section 1031 Exchange is appropriate for the transaction, coordination on the identification of any replacement properties, and helping direct closing to ensure that the technical requirements of the Internal Revenue Code Section 1031 Exchange are followed in both the initial sale and the replacement purchase.

DOT Exchange, LLC 2006 to 2009

Additionally, I owned an Internal Revenue Code Section 1031 Exchange facilitator company, DOT Exchange, LLC, to help both commercial and residential clients facilitate Internal Revenue Code Section 1031 Exchanges. This work for my clients involved non-legal advice in determining whether or not an Internal Revenue Code Section 1031 Exchange would be beneficial for the client to use in the sale of their commercial real estate. In addition to working with my clients, my work as a facilitator involved working with accountants, real estate agents, mortgage brokers, bankers, escrow officers, and attorneys.

Mortgage Brokerage and Traditional Lending Experience

I have represented both residential and commercial clients in purchasing property, and helping them coordinate with their mortgage brokers throughout the transaction. The work would include helping clients understand the lending process, helping gather the necessary information for the underwriting process, and the coordination of the transaction through closing with the escrow company.

Escrow/Title Insurance/Closing

Throughout my career, I have worked closely with escrow companies, in multiple states, in my representation of my residential and commercial clients, who were both buying and selling real property. This work starts with me personally opening escrow, to ensure that the escrow agent understands the transaction and any unique aspects that will require additional work by the escrow agent. After the transaction

is opened in escrow, I coordinate the ordering of title insurance for the transaction, and the determination of the type of title insurance to be obtained, and if any endorsements are needed. Once the preliminary title report is obtained, I review the report and the Special Exceptions, so that my client understands the encumbrances upon the property. If necessary I work with my clients and title officers to remove encumbrances that are unacceptable prior to closing. Once it is determined that the transaction is going to close, I will prepare escrow closing instructions to ensure that the transaction closes in a matter that is satisfactory for my client. If requested by my clients I will also attend closing to ensure that the transaction closes pursuant terms of the sale agreement.

Appraisal

In working with my residential and commercial clients I have been involved in working with appraisals for their properties. This work has involved not only working with the appraisers, but also working with my clients and their lenders, if necessary, to help them review and understand the appraisal.

Teaching Classes for Real Estate Brokers

I was asked by a Principal Broker, who was the President of a local real estate group to teach a class that would provide continuing education credits to residential and commercial brokers regarding the “miscellaneous provisions” of a real estate contract. The class involved analyzing sample provisions and understanding their importance in different types of transactions, from the sale of residential and commercial properties, to easements, and leases.

Employment

Attorney

Michael J. Paluska, PC

1999 - Present

In 1999, I started my own business and real estate law firm. I specialize in both residential and commercial real estate, complex business transactions, and formation and maintenance of both limited liability companies and corporations. My firm is a full service firm which helps clients throughout their entire matter, and focuses on a team approach with the client, their accountant, and other necessary professionals relevant to their matter. This approach helps ensure that in addition to the legal issues involved in the matter that the client’s other issues, from estate planning, tax savings, to insurance issues are addressed. The majority of my practice is spent advising clients buying, selling,

and leasing both residential and commercial real property, the formation of limited liability companies and corporations, and buying and selling business. I have helped numerous clients buy and sell numerous multi-million dollar properties, and businesses throughout my career.

Member

KP Properties, LLC

2002 - 2005

My business partner and I formed this company for the sole purpose of buying and selling real property. We were focused on purchasing foreclosed homes, and then remodeling the homes and either keeping them for residential rental properties or selling the homes.

Attorney

Saalfeld, Griggs, et al
Salem, Oregon

1996 - 1999

I was a business and real estate attorney, at Saalfeld, Griggs, which is one of the largest and most prestigious law firms in the Willamette Valley. I worked as an attorney in the business and real estate sections of the firm. My work in the business section involved advising clients with regard to contracts, business matters, and the formation of limited liability companies and corporations. The legal representation of my real estate clients involved both residential and commercial transactions. This work involved the drafting and review of numerous types of real estate agreements, ranging from sale agreements, finance documents, easements, tax deferred exchanges, residential and commercial leases, and title matters.



BERKSHIRE HATHAWAY | Real Estate Professionals
HomeServices

April 16, 2021

Oregon Real Estate Board
530 Center St. NE
Suite 100
Salem, OR 97301

Re; Letter of Recommendation on behalf of Michael J Paluska, Attorney at Law.

To whom it may concern;

I am an Oregon licensed Real Estate Broker since 1975 and have extensive real estate experience in Sales, Leasing and Development. I have successfully closed over 2,000 transactions in my past 42 years of participation in the Real Estate industry while being associated with the same Real Estate firm since 1979. I have consistently been in the top 10% of brokers based upon closed business.

I was pleased to write this letter of recommendation for Mr Paluska on his behalf to request a complete waiver of the three (3) years of active experience. I have been acquainted with Mr Paluska on a professional level since 1995 when I started working with him on Real Estate Transactions while he was Council at Saalfeld, Griggs and Gorsuch Legal firm in Salem Oregon.

Mr Paluska and I have worked on negotiations and closings with over 60 clients in the past 25 plus years on Transactions involving real property sales, leases, purchase of business and construction / development projects, which have included working with municipalities on land use, permitting and infrastructure issues. Mr Paluska has a vast knowledge and practical experience in all aspects of Real Estate. He has worked with me on very complex transactions involving multiple parties and has always approached each transaction with the goal to protect his clients and to complete the transaction to the end with a successful closing.

Mr Paluska will be in the top tier of managing brokers because of his experience and professional approach to solve issues before they become problems. I have worked with dozens of attorneys and other Brokers and few have his expertise and knowledge. Mr Paluska will be an asset to the Real Estate Industry and I request your sincere consideration regarding the waiver.

Stew Stone 
BERKSHIRE HATHAWAY Real Estate



320 Church St. NE Salem, OR 97301 (503)581-1431 FAX (503)364-8716

May 7, 2021

Oregon Real Estate Agency
Oregon Real Estate Board
530 Center Street NE, Suite 100
Salem, OR 97301

RE: Reference Letter for Michael J. Paluska

Dear Sir or Madam:

I am an Escrow Officer at AmeriTitle in Salem, Oregon. I have worked with Michael Paluska and his clients for the last eleven years. The transactions that I have helped Michael with have ranged from straight forward residential transactions to extremely complexed commercial transactions. I have also had experience with Michael in helping his clients with their IRS Section 1031 Exchanges. Additionally, I have helped Michael on the sale and purchase of business for his clients. Throughout my work with Michael, I have witnessed his professionalism in dealing with buyers, sellers, real estate agents, mortgage brokers, loan officers, Section 1031 facilitators, government agencies, and other attorneys.

Throughout my time working with Michael I have been delighted in the diligence and attention to detail that Michael puts into every transaction. Michael's legal knowledge in real estate is extensive, and has involved Sale Agreements, Land Sale Contracts, Promissory Notes, Trust Deeds (both residential and commercial), Easements, Deeds, Title Insurance, Covenants, Conditions, and Restrictions, Land Use, Collection Escrow, and many other legal issues regarding real estate. His communication with both myself, and our office is clear and concise. His clients have shared their enjoyment of working with Michael to complete their transactions.

With the years of experience that I have had with Michael, I believe that Michael will make an excellent managing broker. I would highly recommend that you grant his request for the waiver of the three year active licensed broker experience.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tasha Walery".

Tasha Walery

E. Lloyd Hiebert
elhiebert@aol.com

Oak Grove Land Company

Cell: (503) 931-2932
Fax: (503) 588-3658
3871 Concomly Rd S
Salem, OR 97306

April 30, 2021

Oregon Real Estate Agency
Oregon Real Estate Board
530 Center Street NE, Suite 100
Salem, OR 97301

RE: Letter of Recommendation on behalf of Michael J. Paluska, Attorney at Law

To whom it may concern,

I am pleased to provide a Letter of the highest Recommendation as a client who has had the privilege of Mr. Paluska's representation on multiple commercial real estate transactions over the past fifteen years. The client is ultimately the reason why your licensing board exists.

Over the years I have brought Leases, Purchase and Sale Agreements and Letters of Intent to Mr. Paluska for his evaluation knowing full well that they would come back brimming with "red line" corrections. His fastidious attention to textual detail has protected me and made for more acceptable agreements for both parties.

Mr. Paluska is proactive in protecting his clients from potential sale complications and legal issues. An example would be illustrative. I was readying a large property for sale and Mike recommended that I obtain a property boundary survey before offering it for sale. The survey revealed nine substantial encroachments by adjacent properties which would have complicated and halted any potential sale. Mike offered his staff as Notary Publics to go to each of these encroaching property owners to move concrete retaining walls and fences and establish a clean property boundary. Mr. Paluska "saved my bacon" on that property sale.

Mr. Paluska's many years of experience in real estate transactions, fastidious attention to legal details and the highest transactional ethics are my reasons that I believe he should be granted a complete waiver of the three-year active licensed experience. He, therefore, has my highest recommendation.

Sincerely,



E. Lloyd Hiebert



Course Completion Certificate

Name: **Mike Paluska**

Address: 270 Candalaria Blvd. S Salem, Oregon 97302

License #: 201219516

has successfully completed the online course with a passing exam score

Oregon Brokerage Administration and Sales Supervision - Part II

Course Approval Number: **142** for **40.00** Post License Credit Hours

from **12/5/2020 2:48:41 PM** to **3/15/2021 8:21:38 AM**

This course is provided by:

Mbition Learn Real Estate

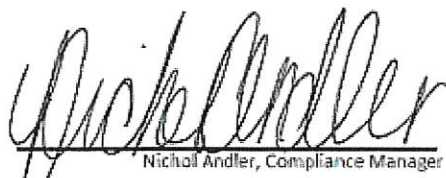
18500 W Corporate Dr. Suite 250

Brookfield, Wisconsin 53045

800-532-7649

Provider # 1001

I certify under penalty of perjury that the above information is true and correct.


Nichol Andler, Compliance Manager

3/15/2021 8:21:38 AM



Course Completion Certificate

Name: **Mike Paluska**

Address: 270 Candalaria Blvd. S Salem, Oregon 97302

License #: 201219516

has successfully completed the online course with a passing exam score

Oregon Brokerage Administration and Sales Supervision - Part I

Course Approval Number: **1125** for **20.00** Post License Credit Hours

from **10/12/2020 2:25:38 PM** to **12/5/2020 2:46:57 PM**

This course is provided by:

Mbition Learn Real Estate

18500 W Corporate Dr. Suite 250

Brookfield, Wisconsin 53045

800-532-7649

Provider # 1001

I certify under penalty of perjury that the above information is true and correct.


Nichol Andler, Compliance Manager

12/5/2020 2:46:57 PM

**REAL ESTATE BOARD
REGULATION DIVISION REPORT
June 7, 2021**

Regulation Division Manager: Vacant
Compliance Specialists 3 (Compliance Coordinator): Rob Pierce, Meghan Lewis
Financial Investigators (Investigator-Auditor): Jeremy Brooks, Aaron Grimes, Liz Hayes (WOC), Lisa Montellano, Cidia Nañez, Lindsey Nunes, John Moore
Compliance Specialist 2: Carolyn Kalb

Division Overview

The Agency receives complaints and determines if an investigation is appropriate. Open cases are assigned to investigators to gather facts (from interviews and documents), prepare a detailed written report and submit for Administrative Review. The Compliance Coordinators conducting the Administrative Review work evaluate whether the evidence supports a violation of Agency statutes or administrative rules. When a case finds sufficient cause to sanction a license, the case is elevated to the Commissioner for review. When the Commissioner supports a sanction, the Compliance Coordinators conduct a settlement conference to resolve cases without a contested case hearing. If the respondent requests a hearing, the Investigator works with the Assistant Attorney General in preparing for and presenting the case at hearing.

Personnel

The Regulations Division Manager position is currently vacant. Deputy Commissioner Higley is acting in the manager role with Commissioner Strode overseeing Administrative Actions. The Agency is currently recruiting for this position and expects to complete the process and onboard a new manager in July 2021.

The Division is also recruiting for a Compliance Specialist III to lead the Clients' Trust Account Reconciliation Review and Compliance Review programs.

The Division has recently hired an Operations and Policy Analyst 2: Regulatory Analyst position in a limited duration capacity. This position is conducting a 10-year historical regulatory review of case nature, findings and actions taken. This final work product will be a regulatory framework document in which the Commissioner will identify any necessary changes from previous precedent, acting as a guidepost for the new division manager in taking future regulatory actions.

Workload and Activity Indicators

<u>Average # in this Status at the time</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>Current 5/12/21</u>
Complaint	40	44	33	25	20	26	19	16	20
Investigation***	50	56	73	66	64	87	76	40	41
(# of Investigators)	6	7	7	7	7*	6-7**	7	7	7
Admin Review	27	33	28	40	35	61	21	12	11
Settlement Process	19	22	38	34	45	46	23	7	6

* One investigator on medical leave.
 ** One investigator on medical leave, then retired. Late 2019 vacancy was filled.
 ***Pending queue retired in 2020. All cases are directly assigned to an investigator rather than being held in a pending status.

ADMINISTRATIVE ACTIONS

Reported

3/23/21 through 5/20/21

REVOCATIONS

Lappin, Melissa K (Beaverton), Property Manager 201210106, Final Order by Default dated May 18, 2021, issuing a revocation and a \$10,000 civil penalty for failure to produce property management records.

SUSPENSIONS

REPRIMANDS

James, Brian (Grants Pass), Broker 201227644, Stipulated Final Order dated April 1, 2021, issuing a reprimand.

Farhoud, Farrah (Portland), Property Manager 201215170, Stipulated Final Order dated April 15, 2021, issuing a reprimand with education.

Adle, Michael E (Ruidoso, NM), Principal Broker 201227272, Stipulated Final Order dated April 22, 2021, 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

Unlicensed Activity

Mahon, Brian J (Pottsville PA), Final Order by Default dated April 6, 2021, issuing a \$500.00 civil penalty for unlicensed activity.

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of

MELISSA K. LAPPIN

FINAL ORDER BY DEFAULT

PROCEDURAL HISTORY

1.

1.1 On April 22, 2021, the Real Estate Commissioner issued, by certified mail, a *Notice of Intent to Revoke License No. PM 201210106 and To Assess A Civil Penalty: Notice of Opportunity for Hearing*. The Oregon Real Estate Agency (Agency) sent the Notice of Intent to Lappin’s last known address of record with the Agency (17550 NW Rolling Hill Ln. Beaverton, OR 97006). The Notice of Intent was also mailed certified to another possible address for Lappin (3925 SW Pinewood Way, Aloha, OR 97078). The Notice of Intent was also mailed to Lappin by regular first class mail to the above two addresses.

1.2 The Notice of Intent was also emailed to Lappin at her email address of record.

1.3 Neither the certified mailings nor the first class mailings have been returned to the Agency. Over 20 (20 days) have elapsed since the mailing of the notice issued in this matter and no written request for hearing has been 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 the Agency.

2.2 Lappin's last known address of record with the Agency was 17550 NW Rolling Hill Ln., Beaverton OR 97006.

2.3 A certified mailing of the Notice of Intent was mailed to Lappin at Lappin's last known address of record on April 22, 2021. The certified mailing of the notice has not been returned to the Agency.

2.4 The notice was mailed certified to another possible address for Lappin at 3925 SW Pinewood Way, Aloha, OR 97078. This certified mailing of the notice has not been returned to the Agency.

2.5 The notice was also mailed regular first class mail in a handwritten envelope to both of the above addresses for Lappin. The mailings in the handwritten envelope have not been returned to the Agency. 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.

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

2.7 According to ORS 696.775, the lapsing, expiration, revocation or suspension of a real estate license, whether by operation of law, order of the Real Estate Commissioner or decision of a court of law, or the inactive status of the license, or voluntary surrender of the license by the real estate licensee does not deprive the commissioner of jurisdiction to: (1) proceed with an investigation of the licensee; (2) conduct disciplinary proceedings relating to the licensee; (3) Take action against a licensee, including assessment of a civil penalty against the licensee for a violation of ORS 696.020(2); or (4) revise or render null and void an order suspending or revoking a license.

2.8 As noted in paragraph 9 of the *Notice of Intent to Revoke License No. PM 201210106 and to Assess a Civil Penalty*, the Agency's entire investigation file was designated as the record for purposes of presenting a prima facie case upon default, including submissions from Lappin and all information in the administrative file relating to the mailing of notices and any responses received.

FINDINGS OF FACT

3.

3.1 Lappin's property manager license became active on February 24, 2020. She is the sole licensee associated with Front Door Property Management, LLC (Front Door).

3.2 Agency records show two clients' trust account registered with Front Door, clients' trust account ending in #8896, and a clients' trust account security deposits account ending in #8904.

3.3 On September 10, 2020, Front Door was selected for a reconciliation review for security deposits account ending in #8904. The reconciliation documents requested were due within 30 days. Lappin failed to respond to the September 10, 2020 email request.

3.4 On October 19, 2020, Agency Compliance Specialist, Roger McComas (McComas) sent a second email to Lappin. Lappin did not respond. On October 28, 2020, McComas sent a third email to Lappin stating the Agency must receive the requested reconciliation documents by noon on October 29, 2020, and that failure to comply may result in a civil penalty of up to \$1,000 a day per ORS 696.990(6).

3.5 Lappin responded with a phone call to McComas that day and followed up with an email explaining, in part, that this was her first clients' trust account review. Per Lappin's response, she misread the October 19, 2020 email and thought she had 30 days from that day to submit the reconciliation documents. Lappin explained she was dealing with personal issues but would send the requested documents by November 3, 2020.

3.6 On November 6, 2020, Lappin emailed McComas explaining she was having technical issues and needed to re-reconcile a couple of months.

3.7 On November 9, 2020, Lappin called Agency Compliance Specialist Jenifer Wetherbee (Wetherbee) and asked if she could drop off the reconciliation documents at the office because she was having difficulty uploading them to the Agency's licensing database. Wetherbee gave Lappin the option of either emailing or faxing the documents.

3.8 On November 10, 2020, Lappin emailed Wetherbee referring to attached documents; however, there was no attachment. Wetherbee responded to Lappin, stating no attachment was received. Lappin stated she would resend them when she got home. Wetherbee received no further communication.

3.9 On January 15, 2021, an investigation was opened.

3.10 On January 29, 2021, Agency Financial Investigator/Auditor Liz Hayes (Hayes) called Lappin at her personal number and business number. Hayes left voicemails at both numbers asking for responses. That same day Hayes sent an email to Lappin's business email address and Lappin's personal email requesting the following documents due to the Agency by February 5, 2021:

- June 2020 3-way reconciliation report for account ending in #8904, including a copy of the supporting bank statement, register, and report showing total security deposits held.
- July 2020 3- way reconciliation report for account ending in #8904, including a copy of the supporting bank statement, register, and report showing the total security deposits held.
- August 2020 3-way reconciliation report for account ending in #8904 including a copy of the supporting bank statement, register, and report showing the total security deposits held.
- December 2020 3-way reconciliation report for account ending in #8904 including a copy of supporting bank statement, register and report showing total security deposits held.

3.11 Receiving no response from her previous February 8, 2021 email, additional attempts at contact were made by Hayes on February 8, 2021, and February 23, 2021.

3.12 Lappin's failure to respond and produce the property management records requested by the Agency demonstrates incompetence and untrustworthiness and is conduct that is below the standard of care for the practice of professional real estate activity in Oregon.

STATEMENT OF LAW

4.

4.1 ORS 696.301(3) which states a real estate licensee's real estate license may be disciplined if they have: ORS 696.301(3) which states a real estate licensee's real estate license may be disciplined if they have: (3) disregarded or violated any provision of ORS

659A.421, 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of the Real Estate Agency

4.2 ORS 696.301(12) and (15) (2019 Edition), which states a licensee's real estate license may be disciplined if they have: (12) demonstrated incompetence or untrustworthiness in performing any act for which the real estate licensee is required to hold a license. (15) engaged in any conduct that is below the standard of care for the practice of professional real estate activity in Oregon as established by the community of individuals engaged in the practice of professional real estate activity in Oregon.

4.3 ORS 696.990(6)(a) and (b). ORS 696.990(6)(a) and (b) states: (a) Except as provided in paragraph (b) of this subsection, a real estate licensee who is a real estate property manager or principal real estate broker and who is engaging in or who has engaged in the management of rental real estate may be required to forfeit and pay to the General Fund of the State Treasury a civil penalty of up to \$1,000 per day of violation, or a lesser penalty in an amount determined by the commissioner, if the licensee fails to comply with rules that require the licensee to produce for inspection records related to the management of rental real estate that are maintained by the licensee as provided by ORS 696.280. (b) A civil penalty imposed under this subsection may not exceed \$10,000.

4.4 ORS 696.301(3) as it incorporates:

a. OAR 863-025-0035(2)(a) and (c) (1-1-2021 Edition), which states: (2) a property manager must produce records required under section (1) of this rule for inspection by the Agency as follows: (a) when the Agency makes a request for production of property management records, the property manager must provide such records within no less than five banking days; (c) failure to produce such records within the timelines stated in subsection (a) or (b) of this section is a violation of ORS 696.301.

ULTIMATE FINDINGS OF FACT

5.

5.1 Lappin failed to produce the requested property management records to the Agency.

5.2 Lappin demonstrated incompetence and untrustworthiness, and conduct that is below the standard of care for the practice of professional real estate activity in Oregon.

5.3 Lappin's complete failure to produce the requested records constitutes grounds to impose a civil penalty as per ORS 696.990(6)(a) and (b).

5.4 In summary, the facts above establish grounds to revoke Lappin's property manager license and impose a \$10,000.00 civil penalty.

CONCLUSIONS OF LAW

6.

6.1 Pursuant to ORS 183.417(4) and OAR 137-003-0670 Lappin is in default.

6.2 The material facts establish violations of a ground for discipline under ORS 696.301 as set forth in the *Notice of Intent to Revoke License No. PM 201210106 and To Assess A Civil Penalty: Notice of Opportunity for Hearing*.

6.3 Based on these violations, the Agency may revoke Lappin's property manager license.

6.4 Specifically, Lappin is subject to discipline pursuant to ORS 696.301(3), (12) and (15). A revocation of Lappin's property manager license is appropriate for violations of ORS 696.301(3), (12) and (15), which states in part a licensee's real estate license may be disciplined if they have: (3) disregarded or violated any provision of ORS 659A.421, 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of the Real Estate Agency; (12) demonstrated incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license; (15) engaged in any conduct that is below the standard of care for the practice of professional real estate activity in Oregon as established by the community of individuals engaged in the practice of professional real estate activity in Oregon.

6.5 A revocation of Lappin's property manager license is appropriate under ORS 696.396(2)(c)(B). According to ORS 696.396(2)(c)(B) the Agency may revoke a real estate license if the material facts establish a violation of a ground of discipline under ORS 696.301 that (B) exhibits incompetence in the performance of professional real estate activity.

6.6 The *Notice of Intent to Revoke License No. PM 201210106 and To Assess A Civil Penalty: Notice of Opportunity for Hearing* also established grounds to assess a \$10,000.00 civil penalty pursuant to ORs 696.990(6)(a) and (b) for violations of OAR 863-025-0035(2)(a) and (c) for failure to produce requested property management records to the Agency.

6.6 Based on the evidence in the record, the preponderance of the evidence weighs in favor of the revocation of Lappin's property manager license and assessment of a \$10,000.00 civil penalty for failing to produce property management records.

6.7 The Agency may therefore, revoke Lappin's property manager license. The Agency may also assess a civil penalty in the amount of \$10,000.00.

OPINION

7.

The Agency takes its consumer protection role very seriously. On September 10, 2020, the Agency selected Lappin's company, Front Door Property Management, LLC, for a Clients' Trust Account Reconciliation Review. The reconciliation documents were due within 30 days from September 10, 2020. As of November 10, 2020, Lappin had not provided the requested reconciliation records, and in January 2021, the Agency opened an investigation. The investigator assigned to the case made multiple attempts to contact Lappin. However, Lappin failed to respond to these attempts and never provided the requested records.

Property managers hold owner and tenant funds in clients' trust accounts, and proper accounting for these funds is a necessary and fundamental requirement for all property managers. By failing to respond to the Agency's multiple records requests, Lappin could not demonstrate that she adequately maintained and accounted for the trust funds held.

Property managers have access to large amounts of money belonging to others. In regards to consumer protection, the Agency must act when a property manager is not responsive and fails to produce records. This license revocation and civil penalty result from Lappin's non-responsiveness and failure to produce requested records.

The specific violations are repeated here below:

(1) By failing to produce the requested property management records, Lappin violated ORS 696.301(3) as it incorporates OAR 863-025-0035(2)(a) and (c) (1-1-2021 Edition), which states: (2) a property manager must produce records required under section (1) of this rule for inspection by the Agency as follows: (a) when the Agency makes a request for production of property management records, the property manager must provide such records within no less than five banking days; (c) failure to produce such records within the timelines stated in subsection (a) or (b) of this section is a violation of ORS 696.301.

(2) ORS 696.301(12) and (15) (2019 Edition), which states a licensee's real estate license may be disciplined if they have: (12) demonstrated incompetence or untrustworthiness in performing any act for which the real estate licensee is required to hold a license. (15) engaged in any conduct that is below the standard of care for the practice of professional real estate activity in Oregon as established by the community of individuals engaged in the practice of professional real estate activity in Oregon.

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ORDER

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

IT IS FURTHER ORDERED, that pursuant to ORS 696.990(6)(a) and (b) and based upon the violation of Lappin failing to produce property management records, Lappin pay a civil penalty in the sum of \$10,000.00 and said penalty to be paid to the General Fund of the State Treasury by paying the same to the Agency.

Dated this 18th day of May, 2021.

OREGON REAL ESTATE AGENCY

DocuSigned by:

Steven Strode

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Steven Strode

Real Estate Commissioner

NOTICE OF RIGHT TO APPEAL: 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 to the Oregon Court of Appeals, pursuant to the provisions of ORS 183.482.

Certificate of Service

On May 18, 2021, I mailed and emailed the foregoing Final Order by Default issued on this date in Agency Case No. 2021-17.

By: First Class Mail

Melissa K Lappin
17550 NW Rolling Hill Ln
Beaverton, OR 97006

Melissa K Lappin
3925 SW Pinewood Way
Aloha, OR 97078

By Email:

Melissa K Lappin
MKlappin@yahoo.com

Nenah Darville
Licensing Specialist

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of
BRIAN JAMES)
STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Brian James (James) do hereby agree and stipulate to the following:

JURISDICTION

According to ORS 696.775, the lapsing, expiration, revocation or suspension of a real estate license, whether by operation of law, order of the Real Estate Commissioner or decision of a court of law, or the inactive status of the license, or voluntary surrender of the license by the real estate licensee does not deprive the commissioner of jurisdiction to: (1) proceed with an investigation of the licensee; (2) conduct disciplinary proceedings relating to the licensee; (3) Take action against a licensee, including assessment of a civil penalty against the licensee for a violation of ORS 696.020(2); or (4) revise or render null and void an order suspending or revoking a license.

PROCEDURAL HISTORY

On February 23, 2021, the Agency issued a *Notice of Intent to Reprimand License No. B.201227644: Notice of Opportunity for Hearing and Notice of Contested Case Rights and Procedures*. On February 26, 2021, James sent an email requesting a hearing. On March 11, 2021 James called the Agency’s assigned Department of Justice Senior Assistant Attorney General and requested a settlement conference. On March 25, 2021, prior to the date of hearing, James entered into settlement discussions with the Agency.

///

FINDINGS OF FACT, STATEMENTS OF LAW
AND CONCLUSIONS OF LAW

1.

1.1 James was licensed as a broker. The Agency received two complaints against James. The complaints in both cases occurred when James' broker license was associated with Help-U-Sell Select Real Estate (HUS). On July 29, 2020, James was disassociated from HUS. James' license is now associated with Save Big Realty.

1.2 The first complaint, was received on May 7, 2020. The first complaint was received from Mary Gustafson (Gustafson) and Gilbert Rivero (Rivero). The second complaint was received on September 28, 2020. The second complaint was received from James' former principal broker, Lone Lassen Murphy (Murphy).

1.3 Upon review of the two complaints the Agency opened two investigations: Case No.2020-161 (Gustafson) and Case No. 2020-454 (Murphy).

1.4 Gustafson and James entered into a listing agreement to list her property located at 1509 Larkspur Ave, Medford Oregon (Larkspur). The listing agreement was signed by Gustafson and James on January 17, 2020.

1.5 On March 8, 2020, buyers Miguel Torres Jr., and Chandelle E. Torres signed an offer to purchase Larkspur and were represented by Angela Pfeiffer (Pfeiffer). The seller accepted the offer that same day.

1.6 Pfeiffer stated that during the transaction she repeatedly had to send documents back to James because they were incomplete.

(1) Violation: James failed to provide the buyers' agent with fully complete documents in the Larkspur transaction in violation of ORS 696.301(3) as it incorporates ORS 696.805(3)(a)(c) (2019 Edition) which states (3) a seller's agent owes the seller involved in a real estate transaction the following affirmative duties: (a) to exercise reasonable care and diligence, and (c) to be loyal to the seller by not taking action that is adverse or detrimental to the seller's interest in the transaction.

1.7 When interviewed Pfeiffer stated that as closing approached, the seller, escrow agent, and Pfeiffer tried to reach James for five days straight, but James never answered the phone or responded to their attempts to contact him by any other means. Emails sent to

1 James bounced back from his account.

2 **(2) Violation:** As closing for Larkspur approached James failed to respond to multiple
3 contact attempts from others regarding the pending transaction in violation of ORS 696.301(3)
4 as it incorporates ORS 696.805(3)(a)(c) (2019 Edition) which states (3) a seller's agent owes
5 the seller involved in a real estate transaction the following affirmative duties: (a) to exercise
6 reasonable care and diligence and (c) to be loyal to the seller by not taking action that is
7 adverse or detrimental to the seller's interest in the transaction.

8 1.8 When interviewed James stated that the owner had received two offers to
9 purchase the house on Larkspur. James said the first offer was \$10,000 below the asking
10 price and that Gustafson rejected the offer. Gustafson when interviewed stated she had never
11 received a written copy of that offer and was not told of the first offer by James until closing of
12 the second offer. When asked for a copy of the first offer received, James was unable to
13 produce it. The Agency then requested a copy of the offer from his principal broker but there
14 was no record of it in the documents she received from James and she stated that she had no
15 memory of ever having received one for review.

16 **(3) Violation:** By failing to present the written offer to the seller and failing to maintain a
17 copy of the offer and failing to submit the offer to his principal broker for review James violated
18 ORS 696.301(3) as it incorporates ORS 696.280(4)(b) (2019 Edition), ORS 696.805(2)(b)
19 (2019 Edition) and OAR 863-015-0250(2) (1-1-2019 and 1-1-2020 Edition). ORS 696.280(4)(b)
20 states except as provided in subsection (2) of this section, records under this section must be
21 maintained by the real estate licensee for a period of not less than six years
22 after the following date: (b) for real estate transactions, the date a transaction closed or failed,
23 whichever is later. ORS 696.805(2)(b) states a seller's agent owes the seller, other principals
24 and the principals' agent the following affirmative duties: (b) to present all written offers, written
25 notices and other written communications to and from the parties in a timely manner without
26 regard to whether the property is subject to a contract for sale or the buyer is already a party to
27 a contract to purchase. OAR 863-015-0250(2) states when a real estate broker receives any
28 document referred to in (1) of this rule, the real estate broker must transmit to the real estate
29 broker's principal broker the document within 3 banking days of a real estate broker's receipt of
30 the document.

1 1.9 When interviewed James stated that Ticor Title Company of Oregon (Ticor) had
2 sent a mobile notary to Gustafson for her convenience but that Gustafson was not cooperative
3 when the mobile notary arrived. James stated that Ticor then called James. Per James he
4 then called Gustafson and Rivero and, rather than advising them that they had the right to
5 seek legal counsel if they had concerns as to whether signing the presented documents in
6 their current form was in their best interests, told them, “This is what you signed and are
7 obligated to do.” James also told them the matter could escalate to litigation and he suggested
8 they avoid that.

9 **(4) Violation:** By advising and telling Gustafson, “This is what you signed and are obligated
10 to do” in order to avoid escalation to litigation James violated ORS 696.301(3) as it
11 incorporates ORS 696.805(3)(c)(e) (2019 Edition) states (3) a seller’s agent owes the seller
12 involved in a real estate transaction the following affirmative duties: (c) to be loyal to the seller
13 by not taking action adverse or detrimental to the seller’s interest in the transaction; and (e) to
14 advise the seller to seek expert advice on matters that are beyond the agent’s expertise.

15 1.10 On September 23, 2020, James was terminated by his HUS principal broker,
16 Murphy. At the time of his termination, James had two pending transactions about to close.
17 Without Murphy’s permission or knowledge James contacted the escrow company for one of
18 the transactions (2246 Haviland Drive, Grants Pass, OR 97527) and proceeded to change the
19 commission wiring instructions. The instructions were changed to direct the money be
20 deposited into his own account at Umpqua Bank, listing James’ own email address as the
21 point of contact, rather than listing his principal broker’s email contact information and her
22 brokerage bank account. This resulted in the full commission being deposited into James’
23 personal bank account instead of the HUSs’ brokerage account.

24 **(5) Violation:** By submitting altered wiring instructions to escrow on the 2246 Haviland Dr.
25 transaction, without his principal broker’s permission, and as a result receiving the entire
26 commission in his own bank account, James demonstrated incompetence or untrustworthiness
27 in performing any act for which a real estate licensee is required to hold a license in violation of
28 ORS 696.301(12) (2019 Edition).

29 1.11 While working under HUS, James ordered \$3,000.00 worth of advertising
30 through Cartvertising on a 12 month contract order form dated February 10, 2020. This

1 advertising was not submitted to Murphy for her approval, and she was unaware of it until she
2 received a notice from a law firm doing collections work and stating that payment for the
3 purchase was past due. The advertising James had purchased was in the HUS company
4 name and was to be paid in 8 monthly installments of \$375.00 beginning April 1, 2020. James
5 failed to pay the advertising bill.

6 **(6) Violation:** By ordering \$3,000 worth of advertising through Cartvertising, which James'
7 principal broker was unaware of and had not approved, James violated ORS 696.301(3) as it
8 incorporates OAR 863-015-0125(5)(a) (1-1-20 Edition) which states a broker must submit
9 proposed advertising to the licensee's principal broker for review and receive the principal
10 broker's approval before publicly releasing any advertisement.

11 1.12 The above acts demonstrate incompetence, or untrustworthiness in performing
12 any acts for which a licensee is required to hold a license; involves dishonest conduct related
13 to the fitness of a real estate licensee to conduct professional real estate activity; and lastly
14 conduct below the standard of care for the practice of professional real estate activity in
15 Oregon.

16 **(7) Violation:** ORS 696.301 (12), (14), and (15) (2019 Edition) which states a licensee's
17 real estate license may be disciplined if they have: (12) demonstrated incompetence or
18 untrustworthiness in performing any act for which the real estate licensee is required to hold a
19 license; (14) committed an act of fraud or engaged in dishonest conduct substantially related to
20 the fitness of the applicant or real estate licensee to conduct professional real estate activity,
21 without regard to whether the act or conduct occurred in the course of professional real estate
22 activity; (15) engaged in any conduct that is below the standard of care for the practice of
23 professional real estate activity in Oregon as established by the community of individuals
24 engaged in the practice of professional real estate activity in Oregon.

25 26 SANCTION

27 2.

28 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.
29 Based on these violations a reprimand is appropriate for violations of ORS 696.301(3),(12),
30 (14), and (15).

1 2.2 The Agency reserves the right to investigate and pursue additional complaints
2 that may be received in the future regarding this licensee.

3 2.3 In establishing the violations alleged above, the Agency may rely on one or more
4 of the definitions contained in ORS 696.010.

5 STIPULATION & WAIVER

6 I have read and reviewed the above findings of fact and conclusions of law which have
7 been submitted to me by the Agency and further, the order which follows hereafter. I
8 understand that the Findings of Fact, Conclusions of Law and this Stipulation and Waiver
9 embody the full and complete agreement and stipulation between the Agency and me. I
10 further understand that if I do not agree with the draft Stipulated Final Order that I have the
11 right to request a hearing on this matter and to be represented by legal counsel at such a
12 hearing. Hearings are conducted in accordance with the procedures set forth in ORS Chapter
13 183 and in accordance with the Rules of Practice and Procedure adopted by the Attorney
14 General of the State of Oregon. Having no dispute with this Stipulated Final Order as drafted
15 herein, I freely and voluntarily waive my rights to a hearing, to representation by legal counsel
16 at such a hearing, and to judicial review of this matter. In so doing:

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

23 **I agree once the Commissioner executes this stipulated order, I will
24 accept service of the final order by email, and hereby waive the right to
25 challenge the validity of service.**

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ORDER

IT IS HEREBY ORDERED that Brian James' broker license be, and hereby is reprimanded.

IT IS SO STIPULATED:

IT IS SO ORDERED:



DocuSigned by:
Brian James
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BRIAN JAMES

DocuSigned by:
Steven Strode
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STEVEN STRODE

Real Estate Commissioner

Date 4/1/2021 | 9:51 AM PDT

Date 4/1/2021 | 10:47 AM PDT

Date of Service: 04/01/2021

c. Catriona McCracken, Sr. AAG

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of)
FARRAH FARHOUD) STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Farrah Farhoud (Farhoud) do hereby agree and stipulate to the following:

FINDINGS OF FACT
&
CONCLUSIONS OF LAW
1.

1.1 Since October 11, 2016, Farhoud has been licensed as a property manager working under the registered business name Stark Firs Management, Inc. (Stark Firs). In 2018 there were several instances where Farhoud’s license was inactive and not associated with Stark Firs (May 1, 2018 to June 12, 2018, and November 1, 2018).

1.2 On February 25, 2020, the Agency notified Stark Firs by email that clients’ trust account ending in #5722 was selected for a mandatory review by the Agency for the month of November 2019. Stark Firs was required to submit trust account reconciliation and supporting documents for the chosen account within 30 days from the date of the email. Due to lack of response, an investigation was opened.

1.3 Farhoud’s license was inactive for the period of May 1, 2018 through June 11, 2018, (42) days due to a late renewal. Farhoud’s license was also inactive on November 1, 2018 for 1 day. During these timeframes, Farhoud was working for Stark Firs and engaging in the management of rental real estate.

(1) Violation: Farhoud’s property manager license was not active from May 1, 2018 through June 11, 2018, and on November 1, 2018, while Farhoud was employed as a

1 property manager for Stark Firs in violation of ORS 696.301(3) as it incorporates ORS
2 696.020(2) (2017 Edition), which states: (2) An individual may not engage in, carry on,
3 advertise or purport to engage in or carry on professional real estate activity, or act in the
4 capacity of a real estate licensee, within this state unless the individual holds an active license
5 as provided for in this chapter.

6 1.4 Rhonny Mastne (Mastne) was licensed as a property manager and Mastne's
7 license became associated with Stark Firs on October 14, 2014. On November 1, 2018,
8 Mastne's license became inactive and remains inactive. Mastne prepared and reviewed the
9 November 2019 reconciliation for clients' trust account ending in #5722.

10 1.5 Ayla Duran and Serena Schwartz worked for Stark Firs as leasing agents
11 involved in accepting, reviewing and negotiating tenant rental and lease agreements. Duran
12 and Schwartz reviewed and processed paperwork, communicated with prospective tenants,
13 prepared correspondence and documents, conducted background and reference checks and
14 data entry. Lori Hays worked as a leasing agent at the registered branch office for Stark Firs
15 and accepted, reviewed and negotiated tenant rental and lease agreements and also collected
16 rents.

17 1.6 Moe Farhoud worked for Stark Firs and had the authority to handle funds,
18 receive and disburse funds for the clients' trust bank account ending in #5722.

19 1.7 Farhoud did not have any written delegations of authority or written policies in
20 place for employees performing property management duties.

21 **(2) Violation:** By not developing and maintaining written policies for employees and duties
22 they perform, Farhoud violated ORS 696.301(3) as it incorporates OAR 863-025-
23 0015(1),(2),(3)(a),(c)(A),(B),(C),(D),(E),(F),(G),(4) (1-1-2019 and 1-1-2020 Editions), which
24 requires: (1) Each property manager must develop, maintain and follow written policies for
25 persons and activities under this rule. (2) Each policy must state the effective date of the
26 policy. (3) Policies must specify the duties, responsibilities, supervision and authority, including
27 any authority to handle funds in a clients' trust account or security deposits account, for the
28 following persons: (a) A licensed property manager employed by the property manager,
29 including any authority to negotiate tenant rental and lease agreements; (c) An employee of
30 the property manager, including any authority to: (A) Negotiate tenant rental or lease

1 agreements under OAR 863-025-0045(2); (B) Check applicant or tenant references, including
2 credit references; (C) Physically maintain the real estate of an owner; (D) Conduct tenant
3 relations; (E) Collect rent and other payments; (F) Supervise premise managers; or (G)
4 Discuss financial matters relating to management of the real estate with the owner. (4) Policies
5 must include provisions that specify the production and maintenance of all reports, records and
6 documents required under this division.

7 **(3)(a) Violation:** Farhoud failed to prepare written delegations of authority for employees Ayla
8 Duran, Serena Schwartz, and Lori Hays who all accepted, reviewed, and negotiated tenant
9 rental and lease agreements, in violation of ORS 696.301(3) as it incorporates OAR 863-025-
10 0015(5)(c) (1-1-2019 and 1-1-2020 Editions), which requires: (5) The following delegations of
11 the property manager's authority must be in writing, dated and signed by the property manager
12 and signed by the individual who is receiving the authority, and kept with written policies: (c)
13 Review, approve and accept tenant rental and lease agreements under OAR 863-025-0045(2).

14 **(3)(b) Violation:** By not preparing a written delegation of authority for Moe Farhoud who
15 received and disbursed funds for the clients trust account ending in #5722, Farhoud violated
16 ORS 696.301(3) as it incorporates OAR 863-025-0015(5)(b) (1-1-2019 and 1-1-2020-
17 Editions), which requires: (5) The following delegations of the property manager's authority
18 must be in writing, dated and signed by the property manager and signed by the individual who
19 is receiving the authority, and kept with written policies: (b) Review and approve reconciliations
20 and receive and disburse funds under OAR 863-025-0028(5).

21 **(3)(c) Violation:** By not preparing a delegation of authority for Rhonny Mastne who prepared
22 and reviewed the November 2019 reconciliation for clients' trust account ending in #5722,
23 Farhoud violated ORS 696.301(3) as it incorporates OAR 863-025-0015(5)(b) (1-1-2019 and
24 1-1-2020 Edition) which requires: (5) The following delegations of the property manager's
25 authority must be in writing, dated and signed by the property manager and signed by the
26 individual who is receiving the authority, and kept with written policies: (b) Review and approve
27 reconciliations and receive and disburse funds under OAR 863-025-00028(5).

28 1.8 On July 2, 2020, Farhoud provided the property management agreements for five
29 properties as requested. A review of the property management agreements found that Moe
30 Farhoud (a non-licensed individual) had signed all of them as a representative of Stark Firs.

1 Farhoud stated during the investigation she had never signed a property management
2 agreement and that Moe Farhoud signed all the property management agreements.

3 **(4)(a) Violation:** By allowing Moe Farhoud, a nonlicensed individual, to sign the property
4 management agreements, Farhoud violated ORS 696.301(3) as it incorporates ORS
5 696.315(1) (2017 and 2019 Editions) and OAR 863-025-0020(6) (1-1-2019 and 1-1-2020
6 Editions). ORS 696.315(1) states except as provided in subsection (2) of this section, a real
7 estate licensee may not knowingly permit a nonlicensed individual to engage in professional
8 real estate activity, with or on behalf of the licensee. OAR 863-025-0020(6) states (6) Only a
9 property manager may negotiate and sign a property management agreement, except that a
10 principal real estate broker engaging in the management of rental real estate may delegate
11 such authority under OAR 863-025-0015(6) to a real estate licensee who is under the
12 supervision and control of the principal real estate broker.

13 **(4)(b) Violation:** By failing to sign the property management agreements, Farhoud violated
14 ORS 696.301(3) as it incorporates ORS 696.890(3) (2019 Edition) which states: (3) A real
15 estate property manager may engage in the management of rental real estate for an owner of
16 rental real estate only pursuant to a property management agreement.

17 1.9 The property management agreements did not specify if application fees would
18 be kept by the property manager or go to the property owner. Per the property management
19 agreements, security deposits are identified as property income to be collected by the property
20 manager, however, it does not state who will hold and maintain the security deposits.

21 1.10 The property management agreements provided all showed the management fee
22 to be 5% of actual gross rental revenues. In reviewing the May 2020 check registers, deposit
23 registers and general ledgers for the corresponding properties, the management fee paid was
24 not 5% of actual gross rental revenues as outlined in the property management agreements.

25 **(5)(a) Violation:** By failing to address who should receive application fees, and failing to
26 specify who will hold and maintain the security deposits Farhoud violated ORS 696.301(3) as it
27 incorporates OAR 863-025-0020(2)(b)(f) (1-1-2019 and 1-1-2020 Editions), which requires (2)
28 A property management agreement must include, but is not limited to: (b) The duties and
29 responsibilities of the property manager and the owner and (f) The management fees,
30 application fees, screening fees, rebates, discounts, overrides and any other form of

1 compensation to be received by the property manager for management of rental real estate
2 including when such compensation is earned and when it will be paid.

3 **(5)(b) Violation:** By not receiving the amount stated in the property management agreement
4 for management fees Farhoud violated ORS 696.301(3) as it incorporates ORS
5 696.890(3),(4)(c),(e) (2019 Edition), which states (3) A real estate property manager may
6 engage in the management of rental real estate for an owner of rental real estate only pursuant
7 to a property management agreement, and (4) A real estate property manager owes the
8 property owner the following affirmative duties: (c) To exercise reasonable care and diligence;
9 (e) To act in a fiduciary manner in all matters relating to trust funds.

10 1.11 Prior to March 20, 2020, security deposits were held in the property operating
11 bank accounts set up for each property. Farhoud failed to confirm during the investigation if
12 the property operating bank accounts were actually clients' trust account bank accounts.
13 Beginning March 20, 2020, new bank accounts were set up for each property to hold only
14 security deposits.

15 **(6)(a) Violation:** By holding tenant security deposit funds in a bank account that was not a
16 designated as a Clients' Trust Account – Tenant Security Deposit Account, Farhoud violated
17 ORS 696.301(3) as it incorporates OAR 863-025-0025(6) (1-1-2019 and 1-1-2020 Editions),
18 OAR 863-025-0030(1)(a),(b),(c),(d) (1-1-2019 and 1-1-2020 Editions), and OAR 863-025-
19 0065(4) (1-1-2019 and 1-1-2020 Editions). OAR 863-025-0025(6) states, except as provided in
20 OAR 863-025-0065 a property manager who receives security deposits on behalf of an owner
21 must open and maintain a security deposits account, as defined in OAR 863-025-0010, that is
22 separate from the property manager's clients' trust account. OAR 863-025-
23 0030(1)(a),(b),(c),(d) requires: (1) Except as provided in section (3) of this rule, all tenants'
24 security deposits received by a property manager must be deposited and maintained in a
25 security deposits account until: (a) The property manager forwards the tenant's security
26 deposit to the owner of the property according to the terms of the tenant's rental or lease
27 agreement and the property management agreement; (b) The property manager disburses the
28 tenant's security deposit for purposes authorized by the tenant's rental or lease agreement and
29 the property management agreement; (c) The property manager refunds a deposit to the
30 tenant according to the terms of the tenant's rental or lease agreement and the property

1 management agreement; or (d) The property management agreement is terminated and the
2 property manager transfers the tenant's security deposit to the owner unless the owner directs
3 the property manager, in writing, to transfer the security deposits and fees to another property
4 manager, escrow agent or person. OAR 863-025-0065(4) requires: (4) All funds, whether in
5 the form of money, checks, or money orders belonging to others and accepted by any property
6 manager while engaged in property management activity, must be deposited prior to the close
7 of business of the fifth banking day following the date of the receipt of the funds into a clients'
8 trust account or security deposits account as defined in OAR 863-025-0010 and established by
9 the property manager under ORS 696.241. The property manager must account for all funds
10 received.

11 **(6)(b) Violation:** By holding tenant security deposit funds in the Stark Firs operating bank
12 accounts, Farhoud violated ORS 696.301(3) as it violates ORS 696.241(2) (2019 Edition) and
13 ORS 696.890(4)(c),(e) (2019 Edition). ORS 696.241(2) requires: (2) A licensed real estate
14 property manager, or a principal real estate broker who engages in the management of rental
15 real estate, shall open and maintain in this state one or more separate federally insured bank
16 accounts that are designated clients' trust accounts under ORS 696.245. A principal real
17 estate broker who engages in the management of rental real estate or a licensed real estate
18 property manager shall deposit in a clients' trust account all trust funds received or handled by
19 the principal real estate broker, licensed real estate property manager or real estate licensees
20 subject to the supervision of the principal real estate broker. ORS 696.890(4)(c),(e) states: (4)
21 A real estate property manager owes the property owner the following affirmative duties: (c) To
22 exercise reasonable care and diligence; (e) To act in a fiduciary manner in all matters relating
23 to trust funds.

24 1.12 Farhoud was notified on February 25, 2020, that Farhoud was selected for a
25 mandatory clients' trust account reconciliation review for the month of November 2019 for
26 clients' trust account ending in #5722 and had 30 days to submit documents for the review.
27 On April 7, 2020, a second notice was sent to Farhoud stating action was required as no
28 documents had been received yet. On April 15, 2020, the Agency had received no response
29 from Farhoud.

30 **(7) Violation:** By failing to respond to the April 7, 2020 notification, Farhoud violated ORS

1 696.301(3) as it incorporates OAR 863-025-0035(2)(a),(c) (1-1-2020 Edition), which requires
2 (2) A property manager must produce records required under section (1) of this rule for
3 inspection by the Agency as follows: (a) When the Agency makes a request for production of
4 property management records, the property manager must provide such records within no less
5 than five banking days; and (c) Failure to produce such records within the timelines stated in
6 subsection (a) or (b) of this section is a violation of ORS 696.301.

7 1.13 Per Farhoud, in January 2020 they lost financial data when doing a
8 reimplementation of their financial software system. When the reimplementation was done,
9 data was lost that had existed previously. They had been under the impression that all of their
10 financial data would be downloaded by their software specialist, but unfortunately it was not.

11 1.14 This lost data impacted Farhoud's ability to produce the November 2019
12 reconciliation for clients' trust account ending in #5722 to the Agency. Due to the lost data,
13 Farhoud and Stark Firs employees had to manually find data and input it into spreadsheets to
14 recreate reports. Farhoud requested an extension to provide the reconciliation documents.
15 Farhoud told Agency staff the reconciliation had to be recreated due to the loss of financial
16 data from the software reimplementation.

17 **(8)(a) Violation:** By not backing up the computerized system, Farhoud violated ORS
18 696.301(3) as it incorporates OAR 863-025-0035(3)(a) (1-1-2019 Edition), which requires (3) If
19 a property manager uses a computerized system for creating, maintaining and producing
20 required records and reports: (a) The property manager must back up any data that is stored in
21 the computerized system at least once every month.

22 **(8)(b) Violation:** By not preserving a file with the November 2019 reconciliation and
23 supporting documents for clients' trust account ending in #5722, Farhoud violated ORS
24 696.301(3) as it incorporates OAR 863-025-0028(2)(e) (1-1-2019 Edition), which requires (2) A
25 property manager must reconcile each clients' trust account within 30 calendar days of the
26 date of the bank statement pursuant to the requirements contained in this section, (e) The
27 property manager must preserve and file in logical sequence the reconciliation document, bank
28 statement, and all supporting documentation including, but not limited to, copies of the record
29 of receipts and disbursements or check register and a listing of each owner's ledger balance
30 as of the date of the bank statement.

1 **(8)(c) Violation:** By not backing up the computerized system and not preserving a file with the
2 November 2019 reconciliation and supporting documents for clients' trust account ending in #
3 5722, Farhoud violated ORS 696.301(3) as it incorporates ORS 696.890(4)(c),(d) (2019
4 Edition), which states (4) A real estate property manager owes the property owner the
5 following affirmative duties: (c) To exercise reasonable care and diligence; (d) To account in a
6 timely manner for all funds received from or on behalf of the owner.

7 1.15 Per Farhoud they had been using their financial software system since 2015.
8 She said sometimes they did the clients' trust account reconciliation in their financial software
9 system and sometimes they did it in Excel. Farhoud also stated they did not always do a bank
10 reconciliation.

11 **(9) Violation:** By not always reconciling clients' trust account ending in #5722, Farhoud
12 violated ORS 696.301(3) as it incorporates ORS 696.890(4)(c)(d) (2019 Edition) and OAR
13 863-025-0028(2)(d)(A),(B),(e) (1-1-2019 and 1-1-2020 Editions). ORS 696.890(4)(c),(d) states
14 (4) A real estate property manager owes the property owner the following affirmative duties: (c)
15 To exercise reasonable care and diligence; (d) To account in a timely manner for all funds
16 received from or on behalf of the owner. OAR 863-025-0028(2)(d)(A)(B)(e) requires: (2) A
17 property manager must reconcile each clients' trust account within 30 calendar days of the
18 date of the bank statement pursuant to the requirements contained in this section. (d) Within
19 30 calendar days from the date of the bank statement, the property manager must: (A)
20 Complete the reconciliation document; and (B) Sign and date the reconciliation document,
21 attesting to the accuracy and completeness of the reconciliation; and (e) The property
22 manager must preserve and file in logical sequence the reconciliation document, bank
23 statement, and all supporting documentation including, but not limited to, copies of the record
24 of receipts and disbursements or check register and a listing of each owner's ledger balance
25 as of the date of the bank statement.

26 1.16 On June 2, 2020, Farhoud submitted clients' trust account November 2019 bank
27 statement for account ending in #5722 to the Agency. On June 3, 2020, Farhoud submitted
28 the trust account balance worksheet, Stark Firs ledger, deposit register, check register and
29 reconciliation worksheet. The reconciliation worksheet did not have a date as to when it was
30 prepared, and was also not signed and dated by Farhoud.

1 **(10) Violation:** By failing to sign and date the reconciliation document for the November
2 2019 reconciliation for clients' trust account ending in #5722 Farhoud violated ORS 696.301(3)
3 as it incorporates OAR 863-025-0028(2)(d)(A),(B),(e) (1-1-2019 1-1-2020 Editions), which
4 requires (2) A property manager must reconcile each clients' trust account within 30 calendar
5 days of the date of the bank statement pursuant to the requirements contained in this section.
6 (d) Within 30 calendar days from the date of the bank statement, the property manager must:
7 (A) Complete the reconciliation document; and (B) Sign and date the reconciliation document,
8 attesting to the accuracy and completeness of the reconciliation; and (e) The property
9 manager must preserve and file in logical sequence the reconciliation document, bank
10 statement, and all supporting documentation including, but not limited to, copies of the record
11 of receipts and disbursements or check register and a listing of each owner's ledger balance
12 as of the date of the bank statement.

13 1.17 The November 2019 reconciliation provided for clients' trust account ending in
14 #5722 was not an actual three way reconciliation as required. The reconciliation worksheet
15 reconciled the bank statement to the check register and the Stark Firs ledger. The
16 reconciliation did not contain the sum of all positive owners' ledger as of the date of the bank
17 statement. The reconciliation did not reconcile the bank statement, check register, and sum of
18 the owners' ledgers balances.

19 **(11) Violation:** By not including the sum of all positive owners' ledgers as of the date of the
20 bank statement and not reconciling the bank statement, check register, and sum of the owner's
21 ledgers balances, Farhoud violated ORS 696.301(3) as it incorporates OAR 863-025-
22 0028(2)(a)(A),(B),(C)(b) (1-1-2019 and 1-1-2020 Editions), which requires: (2) A property
23 manager must reconcile each clients' trust account within 30 calendar days of the date of the
24 bank statement pursuant to the requirements contained in this section. (a) The reconciliation
25 must have three components that are contained in a single reconciliation document: (A) The
26 bank statement balance, adjusted for outstanding checks and other reconciling bank items; (B)
27 The balance of the record of receipts and disbursements or the check register as of the date of
28 the bank statement; and (C) The sum of all positive owners' ledgers as of the date of the bank
29 statement. (b) The balances of each component in section (2)(a) of this rule must be equal to
30 and reconciled with each other. If any adjustment is needed, the adjustment must be clearly

1 identified and explained on the reconciliation document.

2 1.18 The November 2019 reconciliation for clients' trust account ending in #5722
3 listed outstanding checks by check number and amount. The reconciliation failed to list the
4 payee and issue date for each outstanding check.

5 **(12)(a)Violation:** By not listing the payee and issue date for each outstanding check, Farhoud
6 violated ORS 696.301(3) as it incorporates OAR 863-025-0028(2)(c) (1-1-2019 and 1-1-2020
7 Editions), which requires: (2) A property manager must reconcile each clients' trust account
8 within 30 calendar days of the date of the bank statement pursuant to the requirements
9 contained in this section. (c) Outstanding checks must be listed by check number, issue date,
10 payee and amount.

11 **(12)(b)Violation:** By not including the sum of all positive owners' ledgers as of the date of the
12 bank statement and not reconciling the bank statement, check register, and sum of the owner's
13 ledgers balances, and not listing the payee and issue date for each outstanding check,
14 Farhoud violated ORS 696.301(3) as it incorporates ORS 696.890(4)(c),(d) (2019 Edition),
15 which states (4) A real estate property manager owes the property owner the following
16 affirmative duties: (c) To exercise reasonable care and diligence; (d) To account in a timely
17 manner for all funds received from or on behalf of the owner.

18 1.19 Review of the financial documents for clients' trust account ending in #5722
19 shows payments for office mortgages, payroll, supplies, gas, food, uniforms and other
20 miscellaneous operating expenses for Stark Firs.

21 1.20 Farhoud admitted that clients' trust account ending in #5722 was used to receive
22 and disburse business operating expenses for Stark Firs. Additionally, Farhoud stated the
23 clients' trust account bank account was used to receive money owed to Stark Firs including
24 management fees and application fees. Payments were made out of the account for Stark Firs
25 payroll, operating expenses, maintenance supplies, general supplies.

26 **(13)(a)Violation:** By using the clients' trust account ending in # 5722 to pay business
27 operating expenses for Stark Firs and to receive money owed to Stark Firs Farhoud violated
28 ORS 696.301(3) as it incorporates OAR 863-025-0065(6) (1-1-2019 and 1-1-2020 Editions),
29 which requires (6) A property manager may not deposit any funds received on behalf of an
30 owner in the property manager's personal account or commingle any such funds received with

1 personal funds of the property manager.

2 **(13)(b)Violation:** By using the clients' trust account ending in #5722 to receive money owed to
3 Stark Firs, Farhoud violated ORS 696.301(3) as it incorporates OAR 863-025-025(5)(a)(b) (1-
4 1-2019 and 1-1-2020 Editions), which states (5) Only the following funds may be held in a
5 clients' trust account: (a) Funds received by a property manager on behalf of an owner; and (b)
6 Interest earned, but only if the account is a federally insured interest-bearing account and the
7 property management agreement complies with OAR 863-025-0020(3).

8 **(13)(c)Violation:** By using the clients' trust account ending in #5722 to pay business operating
9 expenses for Stark Firs and to receive money owed to Stark Firs Farhoud violated ORS
10 696.301(3) as it incorporates ORS 696.241(5)(a),(b) (2019 Edition), which states (5) A
11 principal real estate broker or licensed real estate property manager may not commingle any
12 other funds with the trust funds held in a clients' trust account, except for: (a) Earned interest
13 on a clients' trust account as provided in subsections (7) and (8) of this section; and (b) Earned
14 compensation as provided in subsection (9) of this section.

15 1.21 Each property had its own operating bank account. Typically money was
16 electronically transferred from the operating account into the clients' trust account bank
17 account.

18 1.22 According to the property management agreement the property manager was
19 required to:

20 " To compute, bill and collect all rent and/or lease payments, security, cleaning
21 and other deposits and all other deposits and all other expenses chargeable to or
22 payable by tenants pursuant to the terms of their leases due to Owner from the
23 Property (the "Property Income"), giving in each instance a receipt for payment
24 thereof upon request from any such tenant and to deposit all such Property Income
25 in a Bank Account(s) maintained by Manager on behalf of the Owner under the
26 name of the Owner at such bank or banks as are selected by Manager; provided
27 all such deposits are federally insured. The Bank Account may designate only
28 Manager as signatory, and Manager, acting alone shall have the power to
29 withdraw funds there from."

30 1.23 Regarding property owner Joseph Khouri, the operating bank accounts had been

1 set up by Khouri. Farhoud could review the operating accounts relating to Khouri's properties
2 but could not receive or disburse funds for these accounts. Money from Khouri's operating
3 accounts was not transferred into the clients' trust account. Each month Khouri would cut a
4 check from Stark Firs in the amount of the management fee and that was deposited into the
5 clients' trust account bank account.

6 **(13)(d)Violation:** By failing to deposit property income collected for Joseph Khouri properties
7 into the clients' trust account ending in #5722, Farhoud violated ORS 696.301(3) as it
8 incorporates ORS 696.241(2) (2019 Edition), which requires (2) A licensed real estate property
9 manager, or a principal real estate broker who engages in the management of rental real
10 estate, shall open and maintain in this state one or more separate federally insured bank
11 accounts that are designated clients' trust accounts under ORS 696.245. A principal real
12 estate broker who engages in the management of rental real estate or a licensed real estate
13 property manager shall deposit in a clients' trust account all trust funds received or handled by
14 the principal real estate broker, licensed real estate property manager or real estate licensees
15 subject to the supervision of the principal real estate broker.

16 **(13)(e)Violation:** By not having access to receive and disburse funds for the operating
17 accounts used to hold the funds for property owner Joseph Khouri, Farahoud violated ORS
18 696.301(3) as it incorporates, ORS 696.890(4)(c),(e) (2019 Edition), which states (4) A real
19 estate property manager owes the property owner the following affirmative duties: (c) To
20 exercise reasonable care and diligence; (e) To act in a fiduciary manner in all matters relating
21 to trust funds.

22 1.24 The November 2019 check register for clients' trust account ending in #5722 did
23 not include the following information for receipts of funds: the purpose of the funds and identity
24 of the person who tendered the funds. For disbursement of funds, the check register failed
25 identify the purpose of the disbursement, and did not contain identifying codes.

26 **(14) Violation:** By failing to include the required transaction detail for entries in the check
27 register for clients' trust account ending in #5722 Farhoud violated ORS 696.301(3) as it
28 incorporates OAR 863-025-0040(2)(a)(C),(b)(D),(c) (1-1-2019 and 1-1-2020 Editions), which
29 requires (2) A record of receipts and disbursements or a check register must contain at least
30 the following information: (a) For each receipt of funds: (C) The purpose of the funds and

1 identity of the person who tendered the funds. (b) For each disbursement of funds: (D) The
2 purpose of the disbursement, and (c) If there is more than one property in a clients' trust
3 account, each entry for a receipt, deposit or disbursement must be identified with the
4 applicable identifying code.

5 1.25 The November 2019 bank statement for clients' trust account ending in #5722
6 was labeled as Stark Firs Business Advantage Checking. The identifying words "Clients' Trust
7 Account" or "Client Trust Account" do not appear on the bank statement. Additionally, check
8 images show the name Stark Firs. The checks did not contain the identifying words "Clients'
9 Trust Account" or "Client Trust Account."

10 **(15)(a)Violation:** By failing to have the required identifying language of, "Clients' Trust Account
11 or Client Trust Account" on the bank statement and checks for clients trust account ending in
12 #5722, Farhoud violated ORS 696.301(3) as it incorporates OAR 863-025-0025(1)(a) (1-1-
13 2019 and 1-1-2020 Editions) and OAR 863-025-0027(2)(c) (1-1-2019 and 1-1-2020 Editions) .
14 OAR 863-025-0025(1)(a) requires (1) All clients' trust accounts and security deposits trust
15 accounts must be labeled on all bank records and checks as: (a) "Clients' Trust Account" or
16 "Client Trust Account. OAR 863-025-0027(2)(c) requires (2) A property manager must maintain
17 and account for all checks used for a clients' trust account or security deposits account
18 including, but not limited to, voided checks. All such checks must: (c) If the account is a clients'
19 trust account, include the words "clients' trust account" or "client trust acct", but may include
20 additional identifying language.

21 1.26 The November 2019 bank statement for clients' trust account ending in #5722
22 shows check card transactions linked to the account for withdrawals and other debits. The
23 statement shows check card transactions for card accounts ending in #6822, #8109 and
24 #9042. The Stark Firs ledgers shows the check card transactions were for Stark Firs business
25 expense payments.

26 **(15)(b)Violation:** By having check cards ending in #6822, #8109, and #9042 linked to clients
27 trust account ending in #5722, Farhoud violated ORS 696.301(3) as it incorporates OAR 863-
28 025-0025(12) (1-1-2019 and 1-1-2020 Editions), which requires (12) A property manager may
29 not utilize any form of debit card issued by financial institutions on a client trust account or
30 security deposits account.

1 1.27 Per Farhoud each property managed had their own operating bank account.
2 Money collected on behalf of each property was deposited into the property's operating bank
3 account. Money collected included rents, parking fees, garage fees, laundry (from washers
4 and dryers located at property), application fees, water, sewer, and garbage payments.
5 Farhoud was unable to confirm if the operating bank accounts were actual clients' trust
6 accounts.

7 **(16)Violation:** By depositing funds received and collected on behalf of the owner into bank
8 accounts that were not designated as clients' trust accounts, Farhoud violated ORS 696.301(3)
9 as it incorporates ORS 696.241(2) (2019 Edition), ORS 696.890(4)(c),(e) (2019 Edition) and
10 OAR 863-025-0065(4) (1-1-2019 and 1-1-2020 Editions). ORS 696.241(2) requires (2) A
11 licensed real estate property manager, or a principal real estate broker who engages in the
12 management of rental real estate, shall open and maintain in this state one or more separate
13 federally insured bank accounts that are designated clients' trust accounts under ORS
14 696.245. A principal real estate broker who engages in the management of rental real estate or
15 a licensed real estate property manager shall deposit in a clients' trust account all trust funds
16 received or handled by the principal real estate broker, licensed real estate property manager
17 or real estate licensees subject to the supervision of the principal real estate broker. ORS
18 696.890(4)(c),(e) states (4) A real estate property manager owes the property owner the
19 following affirmative duties: (c) To exercise reasonable care and diligence; (e) To act in a
20 fiduciary manner in all matters relating to trust funds. OAR 863-025-0065 (4) states (4) All
21 funds, whether in the form of money, checks, or money orders belonging to others and
22 accepted by any property manager while engaged in property management activity, must be
23 deposited prior to the close of business of the fifth banking day following the date of the receipt
24 of the funds into a clients' trust account or security deposits account as defined in OAR 863-
25 025-0010 and established by the property manager under ORS 696.241. The property
26 manager must account for all funds received.

27 1.28 A review of the May 2020 property operating bank account reconciliations and
28 supporting documents for Alder Creek, Country Rambler, Ever Green Park, Parker
29 Townhomes and Surrey Square shows that not all the money collected and deposited into the
30 property operating bank account was transferred to the clients' trust account ending in #5722.

1 **(17) Violation:** By not transferring all the property income collected for these properties from
2 the property operating bank accounts to the clients' trust account ending in #5722, Farhoud
3 violated ORS 696.301(3) as it incorporates OAR 863-025-0065(4) (1-1-2020 Edition) and
4 ORS 696.890(4)(c),(e) (2019 Edition). OAR 863-025-0065(4) requires (4) All funds, whether in
5 the form of money, checks, or money orders belonging to others and accepted by any property
6 manager while engaged in property management activity, must be deposited prior to the close
7 of business of the fifth banking day following the date of the receipt of the funds into a clients'
8 trust account or security deposits account as defined in OAR 863-025-0010 and established by
9 the property manager under ORS 696.241. The property manager must account for all funds
10 received. ORS 696.890(4)(c),(e) states (4) A real estate property manager owes the property
11 owner the following affirmative duties: (c) To exercise reasonable care and diligence; (e) To
12 act in a fiduciary manner in all matters relating to trust funds.

13 1.29 All of the above demonstrate incompetence or untrustworthiness in performing
14 any act for which the real estate licensee is required to hold a license and conduct below the
15 standard of care for the practice of professional real estate activity in Oregon.

16 **(18) Violation:** ORS 696.301(12) and (15) (2017 and 2019 Editions) which state a licensee's
17 real estate license may be disciplined if they have: (12) Demonstrated incompetence or
18 untrustworthiness in performing any act for which the real estate licensee is required to hold a
19 license, and (15) Engaged in any conduct that is below the standard of care for the practice of
20 professional real estate activity in Oregon as established by the community of individuals
21 engaged in the practice of professional real estate activity in Oregon.

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23 2.

24 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.
25 Based on these violations a reprimand is appropriate for violations of ORS 696.301(3), (12),
26 and (15).

27 2.2 The Agency reserves the right to investigate and pursue additional complaints
28 that may be received in the future regarding this licensee.

29 2.3 In establishing the violations alleged above, the Agency may rely on one or more
30 of the definitions contained in ORS 696.010.

1 2.4 According to ORS 696.775, the lapsing, expiration, revocation or suspension of a
2 real estate license, whether by operation of law, order of the Real Estate Commissioner or
3 decision of a court of law, or the inactive status of the license, or voluntary surrender of the
4 license by the real estate licensee does not deprive the commissioner of jurisdiction to: (1)
5 proceed with an investigation of the licensee; (2) conduct disciplinary proceedings relating to
6 the licensee; (3) Take action against a licensee, including assessment of a civil penalty against
7 the licensee for a violation of ORS 696.020(2); or (4) revise or render null and void an order
8 suspending or revoking a license.

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STIPULATION & WAIVER

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I have read and reviewed the above findings of fact and conclusions of law which have been submitted to me by the Agency 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 the Agency and me. I further understand that if I do not agree with this stipulation I have the right to request a hearing on this matter and to be represented by legal counsel at such a hearing. 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.

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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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I agree once the Commissioner executes this stipulated order, I will accept service of the final order by email, and hereby waive the right to challenge the validity of service.

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ORDER

IT IS HEREBY ORDERED that Farrah Farhoud’s property manager license be, and hereby is reprimanded.

IT IS FURTHER ORDERED that Farhoud complete the 27-hour Property Manager Advanced Practices Course, (as detailed in OAR 863-022-0022, 1-1-2021 Edition) within four months from when the Commissioner signs this order. Farhoud must submit a certificate to the Agency showing completion of the 27-hour Property Manager Advanced Practices Course. This certificate must be submitted to the Agency no later than the 10 days after the education has been completed.

IT IS SO STIPULATED:

IT IS SO ORDERED:



DocuSigned by:
Farrah Farhoud
6138952E3DF5417...
FARRAH FARHOUD

DocuSigned by:
Steven Strode
D141D267DDE14A0...
STEVEN STRODE

Real Estate Commissioner

Date 4/15/2021 | 9:27 AM PDT

Date 4/15/2021 | 10:19 AM PDT

Date of Service: 04/15/2021

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of)
MICHAEL E. ADLE) STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Michael E. Adle (Adle) do hereby agree and stipulate to the following:

FINDINGS OF FACT
&
CONCLUSIONS OF LAW
1.

1.1 At all times mentioned herein, Adle was licensed as a principal broker associated with Aperto Property Management LLC (Aperto).

1.2 In September 2019, the Agency notified Adle that clients' trust account ending in #5170 was randomly selected for a mandatory mail-in review. The mail-in review was closed with an Educational Letter of Advice and an investigation was opened.

1.3 Adle opened and maintained in Oregon, four "operating trust accounts" and four security deposit accounts that were not designated as clients' trust accounts. Adle did not notify the Agency of these accounts.

(1) Violation: By failing to properly designate the four "operating trust accounts" and four security deposits accounts as clients' trust accounts, and failing to timely notify the Agency of the accounts, Adle violated ORS 696.301(3) as it incorporates ORS 696.241(2) (2017 and 2019 Editions) and OAR 863-025-0025(3) (1-1-18, 1-1-19, and 1-1-20 Editions). ORS 696.241(2) requires a licensed real estate property manager or a principal real estate broker engaging in property management activity to open and maintain in this state, one or more separate federally insured bank accounts that are designated as a clients' trust account. Per

1 OAR 863-025-0025(3) within 10 business days from the date a clients' trust account is opened,
2 the property manager must notify the Agency using the online process established by the
3 Agency. The notification will include the information required in ORS 696.245, including a
4 copy of the completed and signed "Notice of Clients' Trust Account and Authorization to
5 Examine."

6 1.4 On November, 13, 2020, the Agency requested, through Adle's attorney, that
7 Adle provide reconciliation documents for clients' trust account ending in #3218 and security
8 deposits account ending in #3226 with a due date of November 20, 2020. Adle did not provide
9 the requested documents by the due date.

10 **(2) Violation:** By failing to provide the requested reconciliation documents for clients' trust
11 account ending in #3218 and security deposits account ending in #3218 by the requested due
12 date, Adle violated ORS 696.301(3) as it incorporates OAR 863-025-0035(2)(a)(c) (1-1-20
13 Edition) which states (2) a property manager must produce records required under section (1)
14 of this rule for inspection by the Agency as follows: (a) When the Agency makes a request for
15 production of property management records, the property manager must provide such records
16 within no less than five banking days; (c) failure to produce such records within the timelines
17 stated in subsection (a) or (b) of this section is a violation of ORS 696.301.

18 1.5 The October 2020 reconciliation for clients' trust account ending in #3218 lists
19 the total of ledgers in Part III with a balance of \$15,434.35 lower than the reconciled bank
20 balance (Part I) and the check register (Part II). The explanation written for the difference was:
21 "ACH-Management Fee (Clear next month) \$6,684.74; Payroll (Clear next month) \$8,749.61."

22 1.6 If the outstanding disbursements for the property management fee and payroll
23 were listed as outstanding checks for Part I and subtracted from the bank statement balance,
24 Part I would have shown a reconciled bank balance of \$200,326.48 which matched the ledger
25 (Part III) but still would have been \$15,434.35 less than the check register balance (Part II).

26 **(3) Violation:** The October 2020 reconciliation for the clients' trust account ending in
27 #3218 did not reflect the bank statement balance adjusted for outstanding receipts and
28 disbursements in Part I in violation of ORS 696.301(3) as it incorporates OAR 863-0025-
29 0028(2)(a)(A) (1-1-20 Edition) which states: (2) a property manager must reconcile each
30 clients' trust account within 30 calendar days of the date of the bank statement pursuant to the

1 requirements contained in this section. (a) The reconciliation must have three components that
2 are contained in a single reconciliation document: (A) the bank statement balance, adjusted for
3 outstanding checks and other reconciling bank items.

4 1.7 Supporting documents provided with the October 2020 reconciliation for clients'
5 trust account ending in #3218 did not include a chronological record of receipts and
6 disbursements with an account balance after each entry or a ledger which contained the
7 owners' names or the balance after each recorded entry.

8 **(4) Violation:** Adle did not provide a sufficient check register with his October 2020
9 reconciliation of the clients' trust account ending in #3218 in violation of ORS 696.301(3) as it
10 incorporates OAR 863-025-0040(1),(2)(e) (1-1-20 Edition) which states: (1) except as provided
11 in section (4) of this rule, a property manager must prepare and maintain a chronological
12 record of receipts and disbursements or a check register for each clients' trust account and
13 each security deposits account in which the manager must record each receipt of funds and
14 each disbursement of funds. (2) A record of receipts and disbursements or a check register
15 must contain at least the following information: (e) the account balance after each entry.

16 **(5) Violation:** Adle did not provide a sufficient owner ledger with his October 2020
17 reconciliation of the clients' trust account ending in #3218 in violation of ORS 696.301(3) as it
18 incorporates OAR 863-025-0055(1),(3)(a),(d) (1-1-20 Edition) which states: (1) a property
19 manager must prepare and maintain at least one separate owner's ledger for each property
20 management agreement, for all funds received and disbursed. (3) All owner ledgers must
21 contain at least the following information: (a) the owner's name and identifying code; (d) the
22 balance after each recorded entry.

23 1.8 During the investigation Alde described himself as the "designated broker," for
24 Aperto to do business in Oregon as a property management company. He described his daily
25 responsibilities to include compliance, informing Aperto of law changes and reviewing the
26 month end accounting done by the comptroller.

27 1.9 Adle stated, "People on the ground are designated to do marketing, showing
28 properties, leasing- the day to day property management stuff." When asked what he meant
29 by designated, Adle said they are designated to do property management work. Adle said per
30 the laws in real estate he can designate people to be property managers in Oregon. Adle

1 further said, "You authorize the corporation to do the business for you."

2 1.10 Per Adle, each of the Oregon properties had offices with usually two on-site
3 employees- managers and leasing agents. Adle said he did not interact with them. Initially,
4 Adle did not have any written delegations authorizing Aperto employees to perform certain
5 property management activities.

6 **(6) Violation:** Adle reported to the Agency that he authorized Aperto Property
7 Management LLC (Aperto) and employees of Aperto to conduct property management activity
8 without delegating authority to them in writing in violation of ORS 696.301(3) as it incorporates
9 ORS 696.026(7) and ORS 696.315(1),(2)(a) (2017 & 2019 Editions). ORS 696.026(7) states
10 only a principal real estate broker or licensed real estate property manager may control and
11 supervise the professional real estate activity conducted under the registered business name.
12 ORS 696.315(1),(2)(a) states: (1) except as provided in subsection (2) of this section, a real
13 estate licensee may not knowingly permit a nonlicensed individual to engage in professional
14 real estate activity, with or on behalf of the licensee. (2)(a) a principal real estate broker
15 engaging in the management of rental real estate or a licensed real estate property manager
16 may delegate to a person who is not licensed under this chapter the authority to conduct an
17 activity described in ORS 696.030(9). A delegation made under this paragraph must be in
18 writing.

19 **(7) Violation:** Adle reported on-site employees conducted property management activities
20 for the Oregon properties without interaction from him in violation of ORS 696.301(3) as it
21 incorporates ORS 696.026(7) and ORS 696.315(1)(2) (2017 and 2019 Editions) and OAR 863-
22 015-0140(3) (1-1-18, 1-1-19 and 1-1-20 Editions). ORS 696.026(7) states only a principal real
23 estate broker or licensed real estate property manager may control and supervise the
24 professional real estate activity conducted under the registered business name. ORS
25 696.315(1),(2)(a) states: (1) except as provided in subsection (2) of this section, a real estate
26 licensee may not knowingly permit a nonlicensed individual to engage in professional real
27 estate activity, with or on behalf of the licensee. (2)(a) a principal real estate broker engaging
28 in the management of rental real estate or a licensed real estate property manager may
29 delegate to a person who is not licensed under this chapter the authority to conduct an activity
30 described in ORS 696.030(9). A delegation made under this paragraph must be in writing.

1 OAR 863-015-0140(3) states a principal broker must supervise and control the professional
2 real estate activity at any main or branch office registered by the principal broker.

3 1.11 Per Adle, unlicensed employees of Aperto executed property management
4 agreements between Aperto and the owners of each of the Oregon properties. Adle had not
5 signed the property management agreements.

6 1.12 Adle provided a copy of a property management agreement for owner Cathedral
7 Gardens Partners, LP, which was executed on October 22, 2018, and was signed by Stephen
8 Whyte (authorized signatory for the owner) and Aperto manager Ed Quigley. With the
9 property management agreement was an addendum signed by Adle and back-dated to 2018,
10 which was not signed by the property owner.

11 **(8) Violation:** Adle allowed unlicensed Aperto employees to sign property management
12 agreements and Adle generated an addendum to the property management agreement, which
13 did not contain the signature of the property owner. This violates ORS 696.301(3) as it
14 incorporates ORS 696.315(1) and 696.890(3) (2017 and 2019 Editions) and OAR 863-025-
15 0020(1),(4) (1-1-18, 1-1-19, and 1-1-20 Editions). ORS 696.315(1) states: (1) except as
16 provided in subsection (2) of this section, a real estate licensee may not knowingly permit a
17 nonlicensed individual to engage in professional real estate activity, with or on behalf of the
18 licensee. ORS 696.890(3) states a real estate property manager may engage in the
19 management of rental real estate for an owner of rental real estate only pursuant to a property
20 management agreement. OAR 863-025-0020(1),(4) states (1) a property manager must not
21 engage in the management of rental real estate without a written unexpired property
22 management agreement between the owner and property manager. (4) Any amendment or
23 addendum to the property management agreement must be in writing and include the
24 identifying code, the date of the amendment, the signature of the property manager and the
25 signatures of all owners who signed the initial property management agreement.

26 1.13 Aperto Brokerage Policy and Procedures Manuals dated December 9, 2020 and
27 December 14, 2020 (revised) both contain statements that the property manager may delegate
28 authority to negotiate and sign property management agreements.

29 **(9) Violation:** The written policies for Aperto in place on December 9, 2020 and
30 December 14, 2020 both indicate the property manager could delegate authority to negotiate

1 and sign property management agreements in violation of ORS 696.301(3) as it incorporates
2 OAR 863-025-0020(6) (1-1-20 Edition) which states only a property manager may negotiate
3 and sign a property management agreement, except that a principal real estate broker
4 engaging in the management of rental real estate may delegate such authority under OAR
5 863-025-0015(6) to a real estate licensee who is under the supervision and control of the
6 principal real estate broker.

7 1.14 Records for the Oregon properties were held at the corporate Aperto office in
8 Irvine, CA in electronic format. Adle stated he did not know if the records were backed up
9 monthly.

10 **(10) Violation:** Adle did not know whether Aperto's electronic records were backed up
11 monthly in violation of ORS 696.301(3) as it incorporates OAR 863-025-0035(3)(a) (1-1-18, 1-
12 1-19, and 1-1-20 Editions) which states: (3) if a property manager uses a computerized system
13 for creating, maintaining and producing required records and reports: (a) the property manager
14 must back up any data that is stored in a computerized system at least once every month.

15 1.15 The above acts demonstrate incompetence in performing any act for which the
16 real estate licensee is required to hold a license and conduct below the standard of care for the
17 practice of professional real estate activity in Oregon.

18 **(11) Violation:** ORS 696.301(12) and (15) (2017 and 2019 Editions) state a licensee's real
19 estate license may be disciplined if they have: (12) demonstrated incompetence in performing
20 any act for which the real estate licensee is required to hold a license; and (15) engaged in any
21 conduct below the standard of care for the practice of professional real estate activity in
22 Oregon as established by the community of individuals engaged in the practice of professional
23 real estate activity in Oregon.

24 2.

25 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.
26 Based on these violations a reprimand is appropriate for violations of ORS 696.301(3), (12),
27 and (15).

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

30 2.3 In establishing the violations alleged above, the Agency may rely on one or more

1 of the definitions contained in ORS 696.010.

2 2.4 According to ORS 696.775, the lapsing, expiration, revocation or suspension of a
3 real estate license, whether by operation of law, order of the Real Estate Commissioner or
4 decision of a court of law, or the inactive status of the license, or voluntary surrender of the
5 license by the real estate licensee does not deprive the commissioner of jurisdiction to: (1)
6 proceed with an investigation of the licensee; (2) conduct disciplinary proceedings relating to
7 the licensee; (3) Take action against a licensee, including assessment of a civil penalty against
8 the licensee for a violation of ORS 696.020(2); or (4) revise or render null and void an order
9 suspending or revoking a license.

10 11 STIPULATION & WAIVER

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

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

27 I agree once the Commissioner executes this stipulated order, I will accept service of
28 the final order by email, and hereby waive the right to challenge the validity of service.

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ORDER

IT IS HEREBY ORDERED that Michael E. Adle’s principal broker license be, and hereby is reprimanded.

IT IS FURTHER ORDERED that Adle complete the 27-hour Property Manager Advanced Practices Course, (detailed in OAR 863-022-0022, 1-1-21 Edition) within 4 months from when the Commissioner signs this order. Previously completed 27-hour Property Manager Advanced Practices Courses do not qualify. The course must have been started on April 2, 2021 or later to satisfy this order. Adle must submit a certificate to the Agency showing completion of the 27-hour Property Manager Advanced Practices Course. This certificate must be submitted to the Agency no later than 10 days after the education has been completed.

IT IS SO STIPULATED:

IT IS SO ORDERED:

Michael E. Adle



DocuSigned by:
Steven Strode

D141D267DDE14A0...

MICHAEL E. ADLE

STEVEN STRODE

Real Estate Commissioner

Date 04/21/2021

Date 4/22/2021 | 7:24 AM PDT

Date of Service: 04/22/2021

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Unlicensed Professional)
Real Estate Activity of)
BRIAN J. MAHON)

FINAL ORDER BY DEFAULT AND ORDER
TO CEASE AND DESIST

PROCEDURAL HISTORY

1.

1.1 On December 29, 2020, the Real Estate Commissioner issued, by certified mail, a *Notice of Intent to Assess a Civil Penalty and Order to Cease and Desist (Notice of Intent)*. The Oregon Real Estate Agency (Agency) sent the *Notice of Intent* to Mahon’s last known address of record with the Agency (8 N 11th St. Pottsville, PA 17901-2807). The *Notice of Intent* was also mailed to Mahon by regular first class mail in a handwritten envelope to the above address. The notice was also emailed to Mahon at his email address of record.

1.2 On January 21, 2021, the regular first class mailing in handwritten envelope of the *Notice of Intent* was returned to the Agency marked, “Return to Sender Not Deliverable as Addressed Unable to Forward.”

1.3 On February 2, 2021, the certified mailing of the *Notice of Intent* was returned to the Agency with a box “Other” checked and written on the label was “Unclaimed.”

1.4 On February 9, 2021, the Real Estate Commissioner issued by certified mail, an *Amended Notice of Intent to Assess a Civil Penalty and Order to Cease and Desist (Amended Notice of Intent)*. The Agency sent the *Amended Notice of Intent* to Mahon’s last known address of record with the Agency (8 N 11th St. Pottsville, PA 17901-2807) along with three other possible mailing addresses for Mahon (8 N 11th St Fl 2, Pottsville, PA 17901-2807, 399 Peacock St, Pottsville, PA 17901-1121, and 502 W Market St., Pottsville, PA 17901).

1.5 The *Amended Notice of Intent* was also mailed regular first class mail in a handwritten envelope to Mahon’s address of record and three other possible mailing

addresses for Mahon. The *Amended Notice of Intent* was also emailed to Mahon at his email address of record.

1.6 On March 9, 2021, the regular first class mailing in the handwritten envelope of the *Amended Notice of Intent* addressed to Mahon at 399 Peacock St, Pottsville, PA 17901 was returned to the Agency marked, "Return to Sender No Such Number Unable to Forward."

1.7 On March 11, 2021, the certified mailing of the *Amended Notice of Intent* addressed to Mahon at 399 Peacock St, Pottsville, PA 17901 was returned to the Agency marked, "Return to Sender No Such Number Unable to Forward."

1.8 The certified mailings of the *Amended Notice of Intent* and the first class mailings addressed to Mahon at his address of record (8 N 11th St, Pottsville, PA 17901-2807) and the other possible address for Mahon (8 N 11th St Fl 2 Pottsville, PA 17901-2807 and 502 W Market St., Pottsville, PA 17901) have not been returned to the Agency. Over 20 (20 days) have elapsed since the mailing of the notice issued in this matter and no written request for hearing has been 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 Mahon's last known address of record with the Agency was 8 N. 11th St. Pottsville, PA 17901-2807.

2.3 A certified mailing of the *Notice of Intent* was mailed to Mahon at his last known address of record on December 29, 2020. On February 2, 2021, the certified mailing of the *Notice of Intent* was returned to the Agency with a box "Other" checked and written on the label was "Unclaimed."

2.4 The *Notice of Intent* was also mailed regular first class mail in a handwritten envelope to Mahon's address of record and on January 21, 2021, it was returned to the Agency marked, "Return to Sender Not Deliverable as Addressed Unable to Forward."

2.5 On February 9, 2021, the Real Estate Commissioner issued by certified mail, an *Amended Notice of Intent to Assess a Civil Penalty and Order to Cease and Desist (Amended Notice of Intent)*. The Agency sent the *Amended Notice of Intent* to Mahon's last known address of record with the Agency (8 N 11st St. Pottsville, PA 17901-2807). The same day, February 9, 2021, the Agency also sent the *Amended Notice of Intent* by certified mail to three other possible mailing addresses for Mahon (8 N 11st St Fl 2, Pottsville, PA 17901-2807, 399 Peacock St, Pottsville, PA 17901-1121, and 502 W Market St., Pottsville, PA 17901). The *Amended Notice of Intent* was also emailed to Mahon at his email address of record.

2.6 On February 9, 2021, the *Amended Notice of Intent* was also mailed regular first class mail in a handwritten envelope to the same four address as the certified mailings (8 N 11st St. Pottsville, PA 17901-2807, 8 N 11st St Fl 2, Pottsville, PA 17901-2807, 399 Peacock St, Pottsville, PA 17901-1121, and 502 W Market St., Pottsville, PA 17901).

2.7 On March 9, 2021, the regular first class mailing in the handwritten envelope of the *Amended Notice of Intent* addressed to Mahon at 399 Peacock St, Pottsville, PA 17901 was returned to the Agency marked, "Return to Sender No Such Number Unable to Forward."

2.8 On March 11, 2021, the certified mailing of the *Amended Notice of Intent* addressed to Mahon at 399 Peacock St, Pottsville, PA 17901 was returned to the Agency marked, "Return to Sender No Such Number Unable to Forward."

2.9 The certified mailings of the *Amended Notice of Intent* addressed to Mahon at Mahon's address of record (8 N 11st St. Pottsville, PA 17901-2807) and the other two possible address for Mahon (8 N 11st St Fl 2, Pottsville, PA 17901-2807, and 502 W Market St., Pottsville, PA 17901) have not been returned to the Agency.

2.10 The first class mailings in the handwritten envelope of the *Amended Notice of Intent* addressed to Mahon at Mahon's address of record (8 N 11st St. Pottsville, PA 17901-2807) and the other two possible address for Mahon (8 N 11st St Fl 2, Pottsville, PA 17901-2807, and 502 W Market St., Pottsville, PA 17901) have not been returned to the Agency. 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.

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

2.12 According to ORS 696.775, the lapsing, expiration, revocation or suspension of a real estate license, whether by operation of law, order of the Real Estate Commissioner or decision of a court of law, or the inactive status of the license, or voluntary surrender of the license by the real estate licensee does not deprive the commissioner of jurisdiction to: (1) proceed with an investigation of the licensee; (2) conduct disciplinary proceedings relating to the licensee; (3) Take action against a licensee, including assessment of a civil penalty against the licensee for a violation of ORS 696.020(2); or (4) revise or render null and void an order suspending or revoking a license.

2.13 As noted in paragraph 9 of the *Amended Notice of Intent* Agency's entire investigation file was designated as the record for purposes of presenting a prima facie case upon default, including submissions from Mahon and all information in the administrative file relating to the mailing of notices and any responses received.

FINDINGS OF FACT

3.

3.1 At all times mentioned herein, Mahon was not licensed to conduct professional real estate activity in Oregon.

3.2 In November 2019, the Agency received a complaint against Mahon.

3.3 Ruth Biscardi and her sister Gertrude Simone owned a property located at 904 Clark Street, The Dalles, Oregon (Clark Street). Biscardi had allowed Mahon to live in the Clark Street home, rent free, while he fixed it up.

3.4 Clark Street had multiple living units. Mahon rented out the Clark Street units to various tenants. Wasco County court records show Mahon filed Residential Eviction Complaints in the following instances:

- On February 28, 2017, Mahon filed a Residential Eviction Complaint against tenants April Wilcox, and David and Loretta Lockard. In the notice Mahon stated they paid no rent.
- On August 11, 2017, Mahon filed a Residential Eviction Complaint against tenants Devlin and Heather Slone for nonpayment of rent.
- On May 5, 2018, Mahon filed a Residential Eviction Complaint against tenant Carl Ackley. The cause for eviction noted was promoting drug sales and theft.

3.5 On November 8, 2019, Marcus Swift, Biscardi's attorney, took a picture of a For Sale sign that was on the Clark Street house. The sign included Mahon's personal cell phone number along with the company name, ESP Realty Corp.

3.6 ESP Realty Corp, the company featured on the sign, was not registered with the Oregon Secretary of State.

3.7 Mahon owned a construction company in Pottsville, Pennsylvania, Brian Mahon Enterprises, which also operated under the name ESP Construction.

3.8 Mahon admitted putting up the For Sale sign on the Clark Street House. He said he later took the sign down. Mahon told Agency Investigator/Financial Auditor Cidia Nanez that he was going to sell Biscardi's house. He said he had done it before. He mentioned it was going to be a For Sale By Owner.

Violation: By engaging in the management of rental real estate and attempting to sell Clark Street and posting a For Sale sign on the property without a license, Mahon engaged in the professional real estate activity as described in ORS 696.010(14)(b)(h)(i)(j) (2015 Edition), and 696.010(17)(b)(h)(i)(j) (2017 and 2019 Editions), in violation of ORS 696.020(2) (2015, 2017 and 2019 Editions). ORS 696.020(2) states 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 as provided in this chapter.

STATEMENT OF LAW

4.

4.1 ORS 696.020(2) (2015, 2017 and 2019 Editions) states 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 as provided for in this chapter.

4.2 ORS 696.010(4) (2015 Edition) defines “compensation” as: any fee, commission, salary, money or valuable consideration for services rendered or to be rendered as well as the promise thereof and whether contingent or otherwise.

4.3 ORS 696.010(6) (2017 and 2019 Editions) defines “compensation” as: valuable consideration for services rendered or to be rendered, whether contingent or otherwise.

4.4 ORS 696.010(11)(a)(A)-(M) and (b)(A)-(F) (2015 Edition) and ORS 696.010(14)(a)(A)-(M) and b(A)-(F) (2017 and 2019 Editions) defines “Management of rental real estate.”

4.5 ORS 696.010(14)(b)(h)(i)(j) (2015 Edition) and ORS 696.010(17)(b)(h)(i)(j) (2017 and 2019 Editions) defines “Professional real estate activity” as: any of the following actions, when engaged in for another and for compensation or with the intention or in the expectation or upon the promise of receiving or collecting compensation, by any person who: (b) offers to sell exchange, purchase, rent or lease real estate; (h) engages in management of rental real estate; (i) purports to be engaged in the business of buying, selling, exchanging, renting or leasing real estate; (j) assists or directs in the procuring of prospects, calculated to result in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate.

4.6 ORS 696.010(16) (2015 Edition) and ORS 696.010(19) (2017 and 2019 Editions) defines “real estate” as: includes leaseholds and licenses to use including, but not limited to, timeshare estates and timeshare licenses as defined in ORS 94.803, as well as any and every interest or estate in real property, whether corporeal or incorporeal, whether freehold or nonfreehold, whether held separately or in common with others and whether the real property is situated in this state or elsewhere.

4.7 ORS 696.397 states if the Agency has reason to believe that a person has engaged, is engaging or is about to engage in a violation of ORS 696.020(2) the Agency may, issue an order directing a person to cease and desist from the violation or threatened violation.

4.8 ORS 696.990(4)(a) and (b) (2015, 2017 and 2019 Editions) any person that violates ORS 696.020(2) may be required by the Real Estate Commissioner to forfeit and pay to the General Fund of the State Treasury a civil penalty in an amount determined by the commissioner of: (a) not less than \$100 nor more than \$500 for the first offense of unlicensed professional real estate activity; and (b) not less than \$500 nor more than \$1,000 for the second and subsequent offenses of unlicensed professional real estate activity.

4.9 In establishing the violations alleged above, the Agency may rely on one or more definitions contained in ORS 696.010.

ULTIMATE FINDINGS OF FACT

5.

5.1 Mahon engaged in unlicensed professional real estate activity.

5.2 Mahon's actions constitute grounds to impose a civil penalty per ORS 696.990(4)(a) and (b) and ORS 696.990(5), as well as entry of an order to cease and desist from engaging in any professional real estate activity under ORS 696.397.

CONCLUSIONS OF LAW

6.

6.1 Pursuant to ORS 183.417(4) and OAR 137-003-0670 Mahon is in default.

6.2 The material facts establish grounds to impose a civil penalty per ORS 696.990(4)(a) and (b) and ORS 696.990(5), as well as entry of an order to cease and desist from engaging in any professional real estate activity under ORS 696.397.

6.3 Based on the violations of ORS 696.020(2), the Agency may assess a civil penalty against Mahon and as well as an entry of an order to cease and desist from engaging in any professional real estate activity.

6.4 Based on the evidence in the record, the preponderance of the evidence weighs in favor of the civil penalty against Mahon and an entry of an order to cease and desist from engaging in any professional real estate activity.

6.5 The Agency may therefore assess a civil penalty against Mahon and enter an order to cease and desist from engaging in any professional real estate activity.

OPINION

7.

The Agency takes its consumer protection role very seriously. To protect consumers, an individual must have an active license to engage in professional real estate activity in Oregon (ORS 696.020(2)). A license is issued to individuals who meet the requirements in Oregon (ORS 696.022), which include passing a criminal background check, successfully completing the basic real estate broker's educational courses required by rule, and passing an examination. Mahon did not have an Oregon real estate license, yet he engaged in several acts constituting professional real estate activity including: offering to sell the subject property, engaging in management of rental real estate; purporting to be engaged in the business of buying, selling, exchanging, renting or leasing real estate; and lastly assisting or directing in the procuring of prospects, calculated to result in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate.

Mahon received compensation for his actions by staying in the subject property for free and from his renting out of the subject property for rent payments.

The specific violation is repeated here below:

(1) **Violation:** By engaging in the management of rental real estate and attempting to sell Clark Street and posting a For Sale sign on the property without a license, Mahon engaged in the professional real estate activity as described in ORS 696.010(14)(b)(h)(i)(j) (2015 Edition), and 696.010(17)(b)(h)(i)(j) (2017 and 2019 Editions), in violation of ORS 696.020(2) (2015, 2017 and 2019 Editions). ORS 696.020(2) states 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 as provided in this chapter.

ORDER

IT IS HEREBY ORDERED that pursuant to ORS 696.397, Mahon immediately cease and desist from engaging in any professional real estate activity as defined in ORS 696.010(14)(a) to (n) (2015 Edition), and 696.010(17)(a)-(n) (2017 and 2019 Editions) unless Mahon first obtains a real estate license from the Agency. The Commissioner's authority for this order is under ORS 696.397.

IT IS FURTHER ORDERED, pursuant to ORS 696.990 and based upon the violation set forth above, Mahon pay a civil penalty in the sum of \$500.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to the Agency.

Dated this 6th day of April, 2021.

OREGON REAL ESTATE AGENCY

DocuSigned by:

Steven Strode

D141D267DDE14A0...

Steven Strode

Real Estate Commissioner

NOTICE OF RIGHT TO APPEAL: 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 to the Oregon Court of Appeals, pursuant to the provisions of ORS 183.482.

Certificate of Service

On April 6, 2021, I mailed and emailed the foregoing Final Order by Default issued on this date in Agency Case No. 2019-591.

By: First Class Mail

Brian J Mahon
8 N 11th St
Pottsville, PA 17901-2807

Brian J. Mahon
8 N. 11th St. Fl. 2
Pottsville, PA 17901

Brian J. Mahon
502 W. Market St.
Pottsville PA 17901

By Email:

Brian J Mahon
brianmahon58@yahoo.com

Nenah Darville
Licensing Specialist

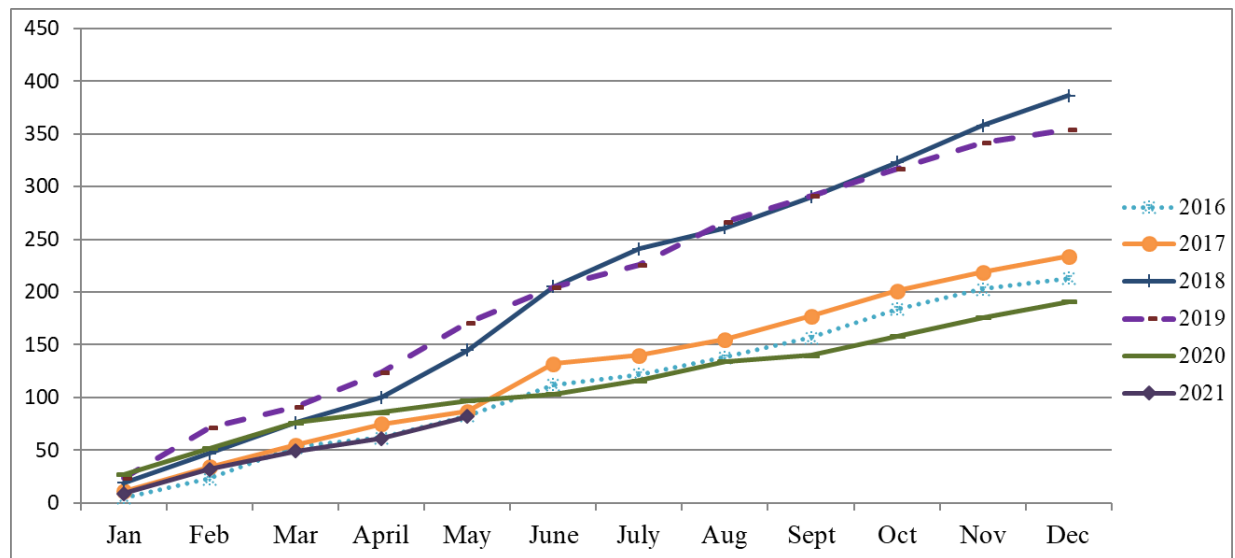
**Report to the Real Estate Board
Land Development Division
June 7th, 2021**

Division Manager: Michael Hanifin

Section Overview:

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

Workload and Activity Indicators



Through end of May the division has received 82 filings. This is comparable to 2016 filing volume.

Legislation:

The agency is tracking several bills this session which will be reviewed briefly at the board meeting.

Enrolled:

HB 2703EN Requires that real estate continuing education courses include information on state and federal fair housing laws. – Enrolled and awaiting Governor’s signature. Effective July 1st, 2021. Applies to licensees renewing or reactivating on or after July 1, 2022.

**REAL ESTATE BOARD
ADMINISTRATIVE SERVICES DIVISION REPORT
June 7, 2021**

Administrative Services Manager: Mesheal Heyman

Accountant: Caty Karayel

Systems Administrator: Tiffani Miller

Program Analyst: Rus Putintsev

Operation & Policy Analyst: Denise Lewis

Section Overview

The Administrative Services Division acts as business support for the Agency overall. This division manages accounting, purchasing and contracting, inventory control, facilities, payroll, human resources, special projects, information technology (IT), performance, and communications.

Budget Update

The Budget bill was passed by the House and is awaiting Senate action. The final Legislatively Adopted Budget will be published in July 2021.

For the 2019-2021 biennium, projected revenue is at **\$10.8 million** and projected expenses are at **\$8.9 million**. Our cash balance is projected to be almost **\$5.6 million**.

Update:

The office continues to be closed. The division continues to assist the rest of Agency staff so customer service and regulatory services can continue with the Agency's mission.

Communications:

We have update the publication schedule of the Oregon Real Estate News-Journal to quarterly to allow for more time to develop content.

There is still room for articles from Board members.

Real Estate Agency - AY21

2019-2021 Budget - Biennium to Date Through June 30th 2021

<i>Budget Codes</i>		<u>19-2021 Legislative Approved Budget</u>	<u>Expected Total Expenditures for Biennium (current)</u>	<u>Expected Remaining Limitation at end of Biennium</u>
	Total Personal Services	7,066,023	6,317,134	748,889
4100 & 4125	In-State Travel & Out-of-State Travel	98,762	44,277	54,485
4150	Employee Training	36,994	21,592	15,402
4175	Office Expenses	83,040	29,373	53,667
4200	Telecom/Tech Services & Support	64,621	57,039	7,582
4225	State Government Services	233,574	303,794	(70,220)
4250	Data Processing	109,297	126,967	(17,670)
4275	Publicity & Publications	36,718	638	36,080
4300 & 4315	Professional Services & IT Professional Services	186,339	219,110	(32,771)
4325	Attorney General Legal Fees	293,465	222,080	71,385
4375	Employee Recruitment	7,748	250	7,498
4400	Dues & Subscriptions	9,575	7,112	2,463
4425	Facilities Rent & Taxes	254,611	242,103	12,508
4475	Facilities Maintenance	4,519	8,844	(4,325)
4575	Agency Program Related S&S	41,308	(1,105)	42,413
4650	Other Services & Supplies	88,482	168,850	(80,368)
4700	Expendable Property \$250-\$5000	29,148	8,605	20,543
4715	IT Expendable Property	162,972	60,508	102,464
	Total Services & Supplies	1,741,173	1,520,036	221,137
	Totals	8,807,196	7,837,170	970,026

4575	Agency Program Related S&S	1,528,989	1,122,050	406,939
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	Totals with Exam Services	10,336,185	8,959,220	1,195,472
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**REAL ESTATE BOARD
EDUCATION & LICENSING DIVISION REPORT
June 7, 2021**

Education & Licensing Manager: Madeline Alvarado
Compliance Specialist: Roger McComas
Compliance Specialist: Tami Schemmel
Compliance Specialist: Jenifer Wetherbee
Administrative Specialist: Nenah Darville
Administrative Specialist: Elizabeth Hardwick
Administrative Specialist: Rick Marsland
Licensing Assistant Receptionist: Yuleni Rodriguez

Section Overview

The Education and Licensing Division acts as support to the Agency as well as the first point of contact for the public and services the business functions of the Agency overall. This division manages reception, licensing services, compliance reviews, clients' trust account reviews, and education.

Staff Update

Licensing Assistant Yuleni Rodriguez joined the staff on April 20.

Licensing Update

Escrow Agent renewals – Escrow organizations start renewing June 1 as long as they submitted the required documents. They have until June 30 to renew.

New Applications – Recorded 438 in April, down by almost 26% since January.

New individual licenses – Saw a decrease of 13% from March to April.

License renewals- For March 84% and April 83% of broker licensees renewed their licenses.

Phones- Phone calls for April were down by 5% from March. The average hold time for both March and April were 29 seconds.

Upcoming

Law and Rule Required Course – The process to update LARRC when the Legislative session is complete.

RBN Renewal

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Eligible to Renew	424	345	344	347								
Failed to Renew	19	17	15	18								
% Renewed	96%	95%	96%	95%								

Licensing Statistics

Total Licensee Counts by Month:

Individuals (Persons)	Mar-21	Apr-21
Broker – Total	17,226	17,348
Active	15,449	15,616
Inactive	1,777	1,732
Principal Broker - Total	6,419	6,434
Active	6,032	6,050
Inactive	387	384
ALL BROKERS Total	23,645	23,782
Active	21,481	21,666
Inactive	2,164	2,116
Property Manager - Total	946	944
Active	822	823
Inactive	124	121
MCC Salesperson	15	16
MCC Broker	1	1
TOTAL INDIVIDUALS	24,607	24,743
Active	22,319	22,506
Inactive	2,288	2,237
Facilities (Companies)		
REMO	5	5
Registered Business Name (RBN)	3,870	3,877
Registered Branch Office (RBO)	776	779
Escrow Organization	66	68
Escrow Branch	147	147
Condominium Filing (CO)	143	151
Unit Owners Association	1,073	1,058
Pre-License Education Provider (PEP)	26	26
CEP	298	298
MCC Operator	25	25
TOTAL FACILITIES	6,429	6,434
TOTAL INDIVIDUALS & FACILITIES	31,036	31,177

New Licenses by Month:

Individuals (Persons)	Mar-21	Apr-21
Broker	264	235
Principal Broker	24	14
TOTAL BROKERS	288	249
Property Manager	8	8
MCC Salesperson	0	0
MCC Broker	0	0
TOTAL INDIVIDUALS	296	257
Facilities (Companies)		
Continuing Education Provider (CEP)	1	0
REMO	0	0
Registered Business Name	35	27
Registered Branch Office	8	6
Escrow Organization	0	2
Escrow Branch	0	0
Condominium Filing	0	0
Unit Owners Association	9	5
Pre-License Ed Provider	0	0
MCC Operator	0	0
TOTAL FACILITIES	52	40
TOTAL INDIVIDUALS & FACILITIES	348	297

Exam Statistics

April 2021

Total

ALL LICENSING EXAMS

Broker	668
Property Manager	11
Principal Broker	68
Reactivation	9

Pass Rates

<i><u>First Time Pass Rate</u></i> <i><u>Percentage</u></i>	<i><u>2017</u></i>	<i><u>2018</u></i>	<i><u>2019</u></i>	<i><u>2020</u></i>	<i><u>2021</u></i>
Broker State	61	58	57	50	47
Broker National	73	72	70	68	67
Principal Broker State	58	59	51	53	62
Principal Broker National	76	77	69	63	56
Property Manager	69	67	64	58	72

Education & Licensing Division

Licensee Application & Renewal

2020 Data

New Applications													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Brokers	359	292	293	273	435	416	411	495	406	405	385	413	4583
Principal Brokers	37	44	37	15	24	27	35	44	25	31	31	50	400
Property Managers	21	23	20	19	20	24	23	31	24	16	32	17	270
Total	417	359	350	307	479	467	469	570	455	452	448	480	5253

Renewal Activity														
Brokers		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
On Time	Active	480	487	526	514	556	511	553	546	550	548	449	544	6264
	Inactive	52	55	25	36	41	32	34	45	31	31	30	32	444
Late	Active	45	32	34	34	43	38	50	40	43	35	52	36	482
	Inactive	11	11	7	13	12	10	11	14	8	8	8	9	122
Lapse		85	92	100	107	97	114	130	135	128	102	111	105	1306
Total		673	677	692	704	749	705	778	780	760	724	650	726	8618

Principal Brokers		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
On Time	Active	234	238	246	243	251	265	211	239	256	213	219	211	2826
	Inactive	9	17	9	15	13	9	11	9	11	9	10	7	129
Late	Active	13	7	11	9	12	4	10	7	10	7	12	9	111
	Inactive	0	2	3	1	1	2	2	1	1	1	1	2	17
Lapse		23	20	30	23	22	18	36	26	25	20	26	23	292
Total		279	284	299	291	299	298	270	282	303	250	268	252	3375

Oregon Real Estate Agency
Education & Licensing Division
Phone Counts

(minutes: seconds)	Jan – 21	Feb – 21	Mar – 21	Apr – 21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov--21	Dec-21	2021 Average
Call Count	1981	1801	1918	1822									1880.5
Average Wait Time	:51	:36	:29	:29									:36.2
Maximum Wait Time	0:19:17	0:10:52	0:09:59	0:10:43									0:12:43

(minutes: seconds)	Jan – 20	Feb – 20	Mar – 20	Apr – 20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov--20	Dec-20	2020 Average
Call Count	2117	1834	1830	1474	1468	1775	1875	1678	1749	1646	1593	1785	1735.3
Average Wait Time	:25	:21	:19	:23	:25	:35	:29	:26	:21	:20	:24	:29	:24.75
Maximum Wait Time	0:11:05	0:09:30	0:14:56	0:10:15	0:18:12	0:13:00	0:21:34	0:14:15	0:11:09	0:17:30	0:09:58	0:12:06	0:13:38

(minutes: seconds)	Jan – 19	Feb – 19	Mar – 19	Apr – 19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov--19	Dec-19	2019 Average
Call Count	2251	1748	1917	2138	2062	1738	1882	1685	1882	2012	1606	1637	1880
Average Wait Time	:20	:21	:29	:23	:24	:33	:30	:27	:26	:16	:25	:20	:24.5
Maximum Wait Time	16:06	9:32	21:21	14:03	15:58	13:20	11:15	12:00	13:59	10:15	5:51	8:21	12:40

(minutes: seconds)	Jan – 18	Feb – 18	Mar – 18	Apr – 18	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov--18	Dec-18	2018 Average
Call Count	2317	2006	2263	2063	2113	2084	1837	2049	1824	2153	1828	1738	2024
Average Wait Time	:22	:15	:17	:16	:16	:27	:21	:19	:21	:23	:17	:25	:20
Maximum Wait Time	5:32	3:23	8:58	7:05	13:27	12:18	14:40	12:53	10:26	13:22	7:41	10:07	8:29