

Oregon Real Estate News-Journal

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No. 3

2005 LEGISLATIVE SESSION HIGHLIGHTS

Scott W. Taylor, Real Estate Commissioner

Two 2005 Session bills amending Real Estate License Law which were signed into law are explained below.

HB 2096

HB 2096 was the Agency's house-keeping bill. Highlights include:

- The term "sole practitioner" has been used as a term of art referring to a real estate broker who works alone, without associates, and who has had the requisite experience to do so. The term is now defined in statute and says, ORS 696.010 (17) "Sole practitioner" means a real estate broker conducting real estate activity not in conjunction with other real estate brokers or principal real estate brokers."
- ORS 696.022 has been amended to clarify what the prerequisites to act as a sole practitioner are.
- ORS 696.022 was amended to clarify that time spent as an active salesperson under the pre-2002 law qualifies as experience under current law.

- Additional amendments provide for the groundwork for an online licensing system which will be implemented.

HB 2604

HB 2604 was passed by the Legislature and signed by the Governor. It becomes effective January 1, 2006. Highlights of the bill relevant to real estate licensees are:

- Section 1 provides that **for purposes of receiving compensation from a principal broker**, a broker associated with a principal broker may create a corporation, LLC, LLP, or other lawfully constituted business organization. However, **the organization will not be licensed nor will professional real estate activity be conducted in its name.**
- Section 2 requires the Real Estate Agency to establish rules to establish a procedure to disburse funds held in a licensee's clients' trust account to the person who delivered the funds if there is a dispute over the funds. The bill also requires the disbursement to be made within 20 days

of request for the funds, though such a disbursement does not affect another's claim to the funds.

- Section 3 reduces the current 33 sections of ORS 696.301 to 15. This is the section outlining the situations where a licensee may be sanctioned by the Agency. This section has many redundancies and duplications in current law, and it is believed the simplification will be easier to understand.
- Section 5 requires the Real Estate Commissioner to promulgate rules to provide for the progressive discipline of real estate licensees, under certain circumstances. It requires the rules provide for progressive discipline designed and implemented to correct inappropriate behavior. Absent significant damage or injury, incompetence in the performance of professional real estate activity, dishonesty or fraudulent conduct, or repeat offense of substantially similar conduct from a prior offense - the maximum sanction the Agency may impose is a reprimand.

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The section requires that rules be adopted for an objective method for investigation of complaints alleging grounds for discipline under ORS 696.301.

It requires that the rules establish procedures for the discovery of material facts and for the reporting of those facts, without conclusions of violation or grounds for discipline by the individual assigned to investigate the complaint to the Commissioner or designee.

- Sections 6 and 7 amend ORS 696.805 and 810 respectively, adding language regarding a licensee's

duty to investigate matters that are outside the scope of the real estate licensee's expertise, "including but not limited to investigation of the condition of property, the legal status of the title or the owner's past conformance with law"

- Section 8, clarifies the ability of the Agency to assess civil fines in the event a licensee fails to renew his or her license in a timely manner, but continues to conduct professional

real estate activity after the license has expired.

The Agency intends to write rules for sections 2, 3, 5, 6, and 7. A concept paper has been sent to various interested stakeholders for comment which will form the basis for the rules. Prior to implementation of the rules, the Agency will hold statewide meetings in three locations around the state (see "Agency Seeks Public Input on Administrative Rules," page 3).

STAFF CHANGES

In the past months, retirements and new opportunities have brought several changes to Agency staff.

Katie Cannon, Director of the Oregon State Fair and Exposition Center, was selected as Deputy Commissioner effective November 1. Katie also has experience as Manager of Regulatory Services and Customer Services for the state's Building Codes Division, was State Facilities Coordinator, and was a budget analyst with the Legislative Fiscal Office.

She replaces Betty Reynolds, who will retire after a transitional period with Katie. Betty has been with the Agency since 1996, and said she is pleased with the migration to computer based exams, upgrades to the computer system for online renewals, and national education and communications awards. She had high praise for Agency staff, "They are committed to the Agency's mission, have a strong customer service ethic, and have accomplished much."

Commissioner Scott Taylor added, "Betty has been my right arm. Words cannot describe the support she has given me over the years. Her dedication to the Agency has been tremendous over the years and she will be missed." He added that, "I am really looking forward to working with Katie. The skill set she brings, combined with her personality, will be a great asset to the Agency."

Brian DeMarco, Manager of Land Development and Policy Coordination, accepted a position with the Oregon

Judicial Department as Legal Counsel. Brian began his employment with the Agency in 1999, and will begin in his new employment November 1. Commissioner Taylor stated that, "Brian has done the land development work with distinction. I am confident he has provided for a smooth transition to his successor. We wish Brian well in his new position with the Judicial Department." The Agency's recruitment period for Land Development Manager ended October 25 and the Agency is in the process of filling the position. Questions regarding land development filings can be directed to Public Service Representative Coleen Oliva at (503) 378-4170, ext. 239.

John O'Leary retired in August as an Investigator/Auditor with the Agency. He began with the Agency in 1987 after working with the Commerce Department. In his years with the Agency, John became an expert in escrow matters, gained praise for his professionalism and willingness to help. Commissioner Taylor noted that Mr. O'Leary has performed the escrow functions seamlessly for years, worked hard in assuring a smooth transition, and that he will be missed. John will be doing consulting in real estate and escrow, and looks forward to spending time with his wife Joyce, and traveling, cruising, fishing, and hunting.

Adam Torgerson, an Investigator/Auditor with the Agency since 2004, accepted a position in October with the Department of Transportation,

STAFF CHANGES: continued on page 3

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Scott W. Taylor, Commissioner

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Betty Reynolds, Editor

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AGENCY SEEKS PUBLIC INPUT ON ADMINISTRATIVE RULES

HB 2604, passed during the 2005 Session and signed by the Governor, requires the agency to engage in rulemaking to implement several sections of the bill, including sections regarding clients' trust accounts funds disbursal, disciplinary actions and licensee duties (see "2005 Legislative Session Highlights," page 1). The Agency met with a broad range of constituents and drafted proposed rules. The Agency will hold statewide meetings in November regarding the proposed rules, will enter into formal rulemaking in December, and the rules will become effective January 1, 2006. Your participation in the process is encouraged.

The proposed rules may be viewed on the Agency's website at www.rea.state.or.us. The Agency will hold public meetings November 7, 8, and 9 in Salem, Grants Pass and Bend to provide an opportunity for licensees and the public to comment on the proposed rules. See dates, times and locations in accompanying box.

The proposed rules will be revised based on the statewide meetings, will be filed with the Secretary of State November 15, 2005, and will be posted then on the Agency's website at www.rea.state.or.us. Also,

- The proposed rules will be published in the Secretary of State's

(SOS) *Oregon Bulletin*, December 1, 2005 which is available either in paper format by calling (503) 373-0701 or through the SOS website at <http://arcweb.sos.state.or.us>, and clicking on "Administrative Rules" then "Current Bulletin."

- A hard copy of the text of the proposed rule changes may be obtained by calling (503) 378-4170, ext. 239. In compliance with the Americans with Disabilities Act, the information is available in alternative formats upon request.

In December, the Agency will hold a formal rulemaking hearing in Salem. Please review the Agency's website and the SOS Bulletin for the date, time, and location of the hearing. Written comments regarding the proposed rules may be submitted until December 30, 2005 by regular mail, e-mail or facsimile. The rules adopted by the Agency after hearing and comment will become effective January 1, 2006. Contact information is:

Administrative Rules Coordinator,
1177 Center NE, Salem, OR
97301-2505
Facsimile: (503) 378-2491
Telephone: (503) 378-4170,
extension 237

PUBLIC MEETINGS SCHEDULE

Salem, November 7

Employment Department
Auditorium
875 Union Street NE
Salem, OR

9:45 AM, Sign in
10:00 AM to noon, Meeting

Grants Pass, November 8

Anne G. Basker Auditorium
604 NW Sixth Street
Grants Pass, OR

9:45 AM, Sign in
10:00 AM to noon, Meeting

Bend, November 9

Central Oregon Community
College Pioneer Hall
Hitchcock Auditorium
2600 NW College Way
Bend, OR

9:45 AM, Sign in
10:00 AM to noon, Meeting

STAFF CHANGES: *continued from page 2*

Public Transit Division as a Public Affairs Specialist. Commissioner Taylor said he will miss Adam's "energy, sense of humor, and quick grasp of things. He will do well in his new position."

The Agency is in the process of filling vacant Investigator/Auditor positions. If you are interested in applying, the announcement for the positions is posted on the State of Oregon website at <http://legov.oregon.gov/DAS/jobs/LE050611.shtml>. Please read the announcement carefully, which contains detailed information regarding the application process.

ONLINE RENEWALS AVAILABLE SOON

The Agency is pleased to announce that it is nearing completion of a major upgrade of its database management system. One of the primary features of the upgraded system is functionality for online transactions. The Agency estimates it will begin offering the secure online renewal process in late December, 2005. Details will be provided in the December edition of the OREN-J.

Other improvements will include expanded licensee lookup features, and a "look and feel" and navigation consistent with the State of Oregon web portal.

Agency staff is working hard on conversion and training in the new system, and will make every effort to assure a smooth transition to the new system and provide more convenient service to licensees.

OFFERING OR SELLING TENANCIES-IN-COMMON SECURITIES IMPLICATIONS IN THE PROMOTION/OFFER AND SALE

*Michelle M. Teed, Chief of Enforcement
Division of Finance and Corporate Services*

Editor's note: This article was printed in cooperation with the Finance and Corporate Services Division of the Department of Consumer and Business Services

When it comes to making and managing money, consumers and investors throughout Oregon are constantly on the lookout for innovative new ideas. Businesses in Oregon and around the country are also looking for new ways to raise capital, attract consumers, and grow their business. One of those innovative new ideas is the concept of investing in a tenancy-in-common (TIC). Current research reflects that many real estate agents, broker-dealers, securities salespersons, and others have been selling real estate investments in the form of TICs. This likely accounts for the very rapid growth of TICs as investments since 2002.

Generally, a TIC is a form of property ownership where more than one person each owns an undivided fractional interest in the

entire property. For instance, if ten investors wanted to acquire a \$1,000,000 property but each investor individually had only \$100,000 to invest, the investors could pool their individual funds and acquire the property as tenants in common, each owning 1/10 of the entire property. This form of ownership can be a convenient way to invest in real estate and can result in favorable tax treatment under § 1031 of the Internal Revenue Code, which was expanded in 2002 to extend its availability and benefits to include TIC pools. However, one of the concerns from the aspect of an investor is managing the tax consequences in the event the TIC is determined to be a security, and was not registered or subject to offering fraud. The investor may have to revisit the tax implications of the TIC. This can be a very important element of disclosure and a possible basis for fraud in the offering.

Because there are many different aspects to TICs, and the character and circumstances of each will vary, their offer and sale may be subject to the oversight of the Division of Finance and Corporate Securities (DFCS) as well as the Real Estate Agency. DFCS regulates the securities industry (capital formation) in Oregon through the registration of securities, licensing entities

and individuals, and conducting enforcement activities. The focus of state securities regulation has always been on the full disclosure and merit review and registration of securities before they are sold in Oregon; the licensing and qualifications of the individuals who sell the securities; and the prohibition against misrepresentations and material omissions (fraud) in connection with the sale of securities.

Oregon law generally requires those offering or selling securities in Oregon, or providing advice or managing accounts of others for a fee, be licensed unless there is an exemption or exclusion available. The Oregon Securities Law provides authority for DFCS to examine all books and records of persons selling securities or conducting investment adviser activity, in addition to anyone reasonably thought to have violated the securities statutes.

A security is generally defined by statute, and includes types of investments you are probably familiar with such as stocks and bonds, but some that are less familiar. Two of the lesser known examples are investment contracts and evidence of indebtedness. An evidence of indebtedness is an obligation or promise to repay money that is loaned or invested in a company, scheme or investment. In general, an investment contract exists when there is an investment of money in a common enterprise with the expectation of profits to be derived primarily from the efforts of others. In many TICs, investors commit assets to a real estate acquisition by pooling funds with other investors, expecting to make profits from the entrepreneurial, managerial, or similar activities of others.

This article reminds those offering or selling tenancy in common



interests that they may be securities under state and federal law and to keep in mind the following:

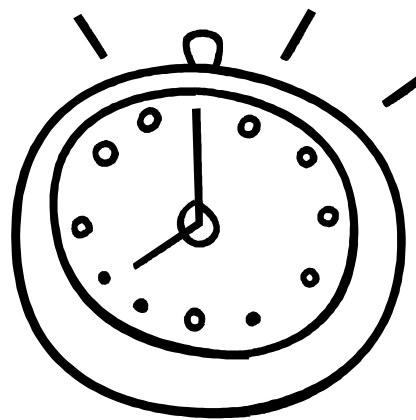
- Securities, including many TICs, must be registered or exempt.
- Those offering, selling, or advising investors to purchase such securities be properly licensed or exempt from that requirement.
- Those offering, selling, or advising investors to purchase such securities must not engage in fraudulent, dishonest, or unethical conduct or practices.
- Investors must receive full disclosure of all material information about the investment.

ORS Chapter 59 provides DFCS the ability to sanction those offering or selling securities where the individual was not licensed, the securities were not registered, or there was fraud in the offer or sale. Anyone offering or selling a security, which may include TICs in many forms, have obligations under the securities laws. Failure to obtain the proper license, failure to seek registration or to show exempt status, and failure to make full and accurate disclosure may constitute a violation under the securities laws and give rise to sanctions.

To determine whether a contemplated tenancy in common arrangement is a security, whether it may be exempt or to find out more about securities licensing, you should contact DFCS at (503) 378-4140 or consult with an attorney for individualized legal advice. The National Association of Securities Dealers (NASD) has recently determined that tenancy in common exchanges generally involve securities. For more information, see NASD Notice to Members 05-18 (March 2005), at http://www.nasd.com/web/groups/rules_regs/documents/notice_to_members/nasdw_013455.pdf.

CLARIFICATION RE: ILLEGAL DRUG MANUFACTURE SITES

The July 2005 edition of the *OREN-J* included an article related to illegal drug manufacture sites, also known as “meth labs.” The Agency wants to clarify that properties declared “unfit for use” may be sold or transferred before a Certificate of Fitness is issued, provided a full written disclosure is given to the buyer or transferee. Please refer to Oregon Administrative Rule 333-040-0100(1) for minimum disclosure requirements. The entire article can be viewed in the July 2005 edition of the *OREN-J*, available at www.rea.state.or.us/REA/EDU/news_journals.shtml.



**WANT TO
HAVE YOUR
LICENSE
ISSUED
MORE
QUICKLY?**

What is the secret to have a license issued (or renewed, transferred, changed) quickly? It is simple: Use the proper form, make sure the form is complete including all necessary signatures, include any required documents, and ensure proper payment is enclosed (if paying by check it must be for the correct amount, signed and made payable to the Real Estate Agency). Additionally, sending all documents, forms and payment in one package will also help expedite your transaction.

We encourage submitting Background Check Applications early, as they can take two to three months to process. If there is an issue which requires review and further investigation, it will take even longer to complete the process. Background Check Applications are considered incomplete if all the required documentation (e.g. detailed written explanation, employment history, reference letters, official documents) are not included, which further delays the process until the required documentation is submitted.

Please help us to better serve you by following the above steps. If you have any questions, call the Licensing Section at (503) 378-4170, selection 2.

This article is adapted from an article published by the State of Alabama Real Estate Commission.

AGENCY HELPS UNCOVER REAL ESTATE/LOAN FRAUD

Virginia Grosso, Oregon Real Estate Agency

In February 2004 the Real Estate Agency joined forces with other regulatory and law enforcement authorities to investigate what became one of the biggest cases the Agency has ever handled. Allegations of real estate and loan fraud affecting hundreds of people and involving hundreds of thousands of dollars were at the center of the investigation.

For more than a year, a veteran Real Estate Agency investigator scrutinized sale and loan documents filling more than 61 boxes of files and interviewed about a dozen escrow and real estate licensees as part of her work on a task force comprising the Real Estate Agency; Yamhill County Sheriff's and District Attorney's offices; Department of Consumer and Business Services, Appraiser Certification and Licensure Board, Department of Justice, and Construction Contractor's Board; U.S. Department of Housing and Urban Development; Federal Bureau of Investigation; and McMinnville Police Department. The task force was led by Ed Rosario, a detective with the Yamhill County Sheriff's Office.

Although the Yamhill County Sheriff's Office initiated the investigation, the fraudulent activity involved was alleged to have occurred in Marion, Washington, and Multnomah counties as well. Because of its statutory authority to obtain records maintained by licensees, the Real Estate Agency aided other law enforcement officials by securing records in a timely manner, thus reducing the chance of records destruction.

Yamhill County grand jury indictments followed, and so far eight individuals face or have been convicted of criminal charges relating to the investigation. Of these individuals, three were real estate brokers, and the rest worked in the loan

and mortgage industry. Other real estate brokers have been sanctioned or are facing sanctions by the Real Estate Agency for violations of regulations within the Agency's jurisdiction. In addition, half a dozen escrow and real estate licensees received advisory letters from the Agency. The educational advisory letters did not address activity related to loan fraud or activity that violated license laws but rather issues of concern that arose from document review by the Agency during the investigation.

Those who were indicted were charged with various types of fraudulent activity, including falsifying loan applications, falsely verifying employment status and buyer income, and falsely representing to buyers that they were making mortgage payments on homes they owned when in fact they were paying toward mortgages held by others. Other allegations concerned the depositing of trust funds into personal bank accounts, failing to give clients receipts for cash payments, giving clients bogus receipts, and failing to accurately credit principals in closing documents.

According to task force investigators, buyers were asked to find co-signers and subsequently told the co-signers would have no liability once a transaction was consummated when in truth the co-signers remained fully responsible for a loan through its duration. One couple reported being told not to bother the escrow company with questions regarding closing cost information, which unbeknownst to them was erroneous, because the escrow company charged by the minute.

The task force and its work drew press coverage throughout the state and nationally due to the high volume of complaints investigated and the fact that virtually all victims and

perpetrators were Hispanic. Victims of the fraudulent activity were not fluent in English, which significantly contributed to their vulnerability when they put their trust in persons who shared a common culture and language with them.

The Agency investigator who helped to uncover the widespread fraudulent activity said the case was the most complex and time-consuming case she has worked since she started with the Agency more than seven years ago. A former principal broker with a real estate license currently in an inactive status, the investigator said the task force work was exhaustive and at times heart-wrenching but had a good result in that wrongdoers were apprehended and dealt with by the appropriate authorities. "Hopefully, this will serve as a deterrent to others and keep them from doing the same thing," she commented.

According to the investigator, agents representing buyers who may have become entangled with a dishonest mortgage broker do not always know it. It is only when and if the buyer tells the agent about what is going on with their loan application that an agent might learn about something seemingly irregular or suspicious. The following are some tips offered by the Agency investigator who reviewed more than 300 files, including 150 escrow files, while working the fraud case.

- If a buyer client tells you that a loan officer wants the client to state something untrue on a loan application, or if the buyer tells you the mortgage broker has fabricated or exaggerated the buyer's income, you should point out to the buyer that false information on applications could be deemed loan fraud.
- Use caution if a buyer comes to you with some kind of loan ap-

proach the buyer's mortgage broker has suggested which seems "off" or irregular. You can direct the buyer to the Department of Consumer and Business Services mortgage brokers regulators or advise them to seek legal counsel before going ahead with the scheme. Voice concern but avoid attempting to give legal advice.

- If changes must be made to an earnest money agreement, do not cross out items and write in new language directly on the contract. Instead, use an addendum to clarify changes. Cross-outs on a sale contract can lead to problems and appear suspicious.
- If your client is non-English speaking and you do not speak the client's language, don't rely on someone you do not know or trust—even if it is the client's mortgage broker—to translate. If the client wants to have a family member translate, prepare an addendum stating such and have both principals sign it. Clarify in the addendum if you do not understand the client's spoken language.

The Real Estate Agency's contribution to the fraud investigation was significant, said Yamhill County Sheriff's Detective Ed Rosario. The Agency investigator

who worked with Rosario earned his respect and gratitude. "Without her, I wouldn't have been able to finish the case," he said. "Number one," he stated, "she had the real estate expertise we needed and knowledge of that field. Number two, she was one of the few people working on the case who stayed through to the end." Rosario said the Agency investigator helped in trial preparation as well. It was important, too, he said, that she understood the plight of the victims.

While the investigation phase has been completed, not all the criminal or Agency cases tied to it have been resolved. By July of this year, four of the eight individuals indicted as a result of the investigation had been convicted of various crimes related to fraud in Yamhill County Circuit Court. The remaining four defendants had opted for trial, according to newspaper accounts.

Among them the eight defendants faced 51 counts, including 44 felonies. The charges encompassed racketeering, theft, fraud, and conspiracy related to homebuying and loan fraud. The victims numbered more than 100, and the combined actual and potential financial loss suffered by them has been estimated at more than one million dollars.

The real estate licenses of Douglas Pleitez, 40, and Patricia Tellez, 32, were revoked by judges of the Yamhill County Circuit Court in June 2005 as a result of the fraud investigation. Pleitez had been licensed in Oregon since 2001, and Tellez, since 2002. Both accepted plea bargains rather than face trial. They agreed to cooperate with authorities by testifying against other defendants involved in the case.

In addition, Pleitez was sentenced to six months of incarceration and 21 months of probation with three months of house arrest after he was convicted of fraud and felony theft charges. He was also found guilty of Oregon real estate licensing law violations, including misrepresentation. Pleitez was ordered to pay \$9,000.00 in restitution to victims. The Court found Pleitez in "violation of professional responsibility" and his victims "particularly vulnerable."

In tandem with the revocation of her real estate license, Tellez was convicted of the felony of fraud related to mortgage banker and broker business, as well as misrepresentation under ORS 696.301 (1). She received a fine and 15 months of probation, three months of which will be served under house arrest.

STATEMENT OF OWNERSHIP, MANAGEMENT, AND CIRCULATION

Editor's Note: The United States Postal Service requires the following information concerning circulation of the Oregon Real Estate News-Journal be published annually in the OREN-J.

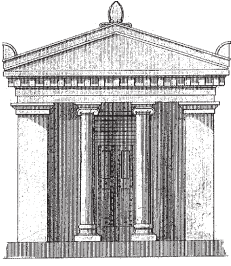
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ADMINISTRATIVE ACTIONS

June 1, 2005 through August 31, 2005



The Agency is required by Oregon Real Estate License Law to publish disciplinary actions. A list of those actions, a brief description of the situation, and the grounds for

the Commissioner's action follows. Please note there are 60 days after the order date to file an appeal, and some of the orders listed may be within that appeal period. Please also note, there are individuals with real estate licenses that may have similar or the same names as those listed herein, or even work in the same market area. If you are in doubt if an individual listed here is someone you know or with whom you are dealing, please contact the Agency for verification.

Finally, please note that stipulated settlements do not necessarily reflect all the factual violations initially alleged by the Agency, and the sanction(s) may have been adjusted as part of the negotiation process. Such settlements may not, therefore, directly compare in severity/sanction with other cases.

REVOCATIONS

Covington, Donna M. (Sandy) Temporary Associate Broker #990600048
Default order dated August 24, 2005, effective August 24, 2005; used her relationship as a real estate agent to obtain identity and financial information from her client which was used in an unlawful manner, ORS 696.301(31); pled guilty to two counts of Theft 1 and one count of Forgery 2, ORS 696.301(26); and represented her client in a purchase while not actively licensed to do so, ORS 696.020(1).

Kim, Paul (Joong Hee) Principal Broker #891100153

Default order dated June 7, 2005, effective June 7, 2005; failed to maintain a place of business in Oregon and failed to notify the Commissioner of a change of business location, ORS 696.200.

Pleitez, Douglas A. (McMinnville) Temporary Associate Broker #200008080
License revoked by Yamhill County Circuit Court Order dated June 16, 2005, effective June 16, 2005.

Sayles, Jenifer Lynn (Gresham) Property Manager #200402206
Stipulated order dated July 14, 2005, effective July 14, 2005; forging tenant signatures on lease agreements without their knowledge, and converting credit payments from the forged tenant agreement, ORS 696.301(31); and failing to notify the Agency of her new address, ORS 696.200(2).

Tellez, Patricia (McMinnville) Broker #200112173
License revoked by Yamhill County Circuit Court Order dated June 30, 2005, effective June 30, 2005.

SUSPENSIONS

Brockman, Ed W. (West Linn) Broker #900300398
Default Order dated August 1, 2005 issuing a 60 day suspension effective August 19, 2005; told another licensee that the subject property was sold when in fact it was not, ORS 696.301(1); changed RMLS to show the sale pending when he did not have a fully signed earnest money agreement, ORS 696.301(1); failed to obtain the signatures of all legal owners on the listing agreement and limited agency disclosure when he knew or should have known there was more than one owner, ORS 696.805(3)(a); failed to have a complete copy of the first offer from the first buyer in his broker file, ORS 696.280; failed to have his principal broker or someone else take over or monitor his ongoing transaction while he was on vacation, ORS 696.8156(2)(b); and failed to provide his principal broker with any of the transaction documents until questioned by his principal broker, OAR 863-015-0255(2).

Frazer, Michael "Mick" (Dallas) Broker #200308195

Stipulated order dated June 10, 2005 issuing a 30 day suspension effective June 24, 2005; wrote a letter demanding commission from a seller after the seller's listing contract had expired, without the knowledge and authorization of his principal broker and without demonstrating that listing contract terms entitling the brokerage to such had been met or that Frazer personally was entitled to a commission, ORS 696.301(31); advertised the registered trade symbol for "Realtor" on his personal business cards without proper authorization to use the symbol and without being a member of an association of Realtors®, ORS 696.301(6).

Young, Pamela J. (Wilsonville) Temporary Associate Broker #941100065.

Stipulated order dated June 20, 2005 issuing an 18 month suspension effective June 20, 2005. Young and D became aware of a foreclosure property. D bid on the property and completed the purchase. They agreed improvements would be made to the property and Young would purchase the home from D. Young and D verbally agreed to use credit cards for the purchase of needed supplies for improvements projects. Young did not document in the sale agreement what would happen relative to the improvements if the contract expired and the transaction did not close. Young represented both the buyer (herself) and the seller (D), and Young prepared the sale agreement. Young did not date an alteration she made in the closing section of the sale agreement. Young did not provide D a copy of the sale agreement after it was modified. Young employed an unlicensed electrical contractor to do repairs and improvements to the subject property. The unlicensed contractor used inappropriate materials. Young could not obtain financing and Young

and D signed a Mutual Release/Cancellation of Escrow. D instructed Young to cancel the escrow. Young signed the cancellation, then proceeded to extend the escrow with an addendum signed by Young only. Young remained at the property and refused to leave, alleging that she was entitled to the money she spent as well as the additional equity she alleged to have created. D was unable to evict Young, because Young continued to claim she was in the process of purchasing the home, despite the expiration of the contract and Young's failure to ever deposit earnest money as per the sale agreement or disclose her failure to D. Young never prepared a rental agreement and used her own failure to defend against the owner's claims. The case was arbitrated with the arbitrator finding Young had no basis for occupancy of the home for approximately fifteen months and awarded D back rent accordingly. Stipulated violations: failed to conduct her business under her broker's registered business name, ORS 696.026(3) pursuant to ORS 696.301(5); represented both the seller and buyer in the real estate transaction without obtaining a Disclosed Limited Agency Agreement, ORS 696.815(1); failed to provide seller with a copy of the executed listing agreement, OAR 863-015-0130(1); failed to appropriately document in the sale agreement the usage of credit cards for the purchase of supplies, OAR 863-015-0135(5); failed to tender a copy of the sale agreement to seller when it was executed, OAR 863-015-0135(1); failed to prepare the promissory note or deposit earnest money as set out in the agreement where she was the buyer, ORS 696.301(1); failed to notify the seller that the earnest money was not deposited, ORS 696.301(1); failed to advise her client to execute a rental agreement, ORS 696.301(28); occupied the subject property contrary to the sale agreement while acting as the seller's agent and without the seller's consent, ORS 696.301(28); altered the number of days in the closing section of the sale agreement instead of the closing date in a manner calculated to

mislead the seller, ORS 696.301(1); failed to date the alteration she made in the closing section of the sale agreement, ORS 696.815(2); hired unlicensed contractors to make repairs and improvements on the subject property while acting as seller's agent, ORS 696.301(28); failed to provide seller with a copy of the modified sale agreement, OAR 863-015-0135(1); signed the cancellation with seller when she had no intention of canceling the escrow, ORS 696.301(1); and occupied the subject property without authorization by the owner, and failing to vacate the property when the transaction failed, ORS 696.301(4).

REPRIMANDS

Buller, Nancy (Portland) Principal Broker #950600148
Stipulated order dated June 3, 2005; allowed access to the subject property without confirming that the entry was made with the permission and knowledge of the property owner, resulting in unauthorized alterations to the property, ORS 696.301(28).

Herrig, Maureen (LaGrande) Property Manager #200310190
Stipulated order dated June 15, 2005; removed \$100 from moneys paid by a tenant and belonging to the property owner, then transmitting it to a subcontractor and replacing it with an I.O.U., ORS 696.241(1), 696.361, OAR 863-025-0025(1); failed to affix the owner identifying codes to two cash receipts, OAR 863-025-0060; posted, or allowed a tenant ledger to be posted showing funds were received later than they actually were, OAR 863-025-0050(4); posted payments to owner's ledgers showing payments were received later than they actually were, OAR 863-025-0055; and accessed receipted funds and gave her daughter money with which to go to the movies, ORS 696.301(10).

Johnson, Gregory A. (Roseburg) Principal Broker #900200289
Stipulated order dated August 24, 2005; by placing a lockbox on a client's property, he did not follow the writ-

ten instructions of the seller, ORS 696.805(3)(a).

Lee, Ronny J. (Salem) Principal Broker #199912062
Stipulated order dated June 24, 2005; offered to pay rebates to unlicensed individuals and in fact paid rebates to unlicensed individuals, ORS 696.290; and used a business name in his advertising other than his registered business name, OAR 863-015-0095(1).

Ray, Jerileen L. (North Bend) Broker #200012125
Stipulated order dated August 5, 2005; while representing both buyer and seller, failed to prepare or obtain a signed extension addendum after the closing date set by the earnest money agreement expired when she knew the principals had agreed to remain in the transaction past the closing date and had also been advised by her principal broker to prepare an extension, ORS 696.815(2)(a)(b); advised the seller to sign a termination agreement and enter into an agreement with another buyer for the same property without notifying the first buyer, ORS 696.815(5)(b); and failed to provide her principal broker with a copy of the first termination agreement prepared, OAR 863-015-0255(2).

Robertson, Alan G. (Tigard) Principal Broker #780400384
Stipulated order dated June 24, 2005; failed to procure a fully executed disclosed limited agency agreement, failed to notify a seller of the lack of earnest money, and failed to follow his company policy regarding an agent purchasing one of his or her own listings by failing to either represent the seller himself or appoint another agent to represent the seller and the buying agent, ORS 696.301(28).

Vego, R. Covington (Salem) Principal Broker #780403322
Stipulated order dated July 1, 2005; conducted professional real estate activity in the name of one brokerage while licensed with another,
ADMINISTRATIVE ACTIONS: *continued on page 10*

ADMINISTRATIVE ACTIONS: *continued from page 9*
ORS 696.301(3).

CIVIL PENALTIES

Columbia County Title & Escrow Services, Inc. (St. Helens) Escrow Agent #880900119

Stipulated order dated June 13, 2005 issuing a \$3,000 civil penalty; failed to submit required financial information to the Agency within 120 days of its tax or accounting year end, OAR 863-050-0150(2).

Davis, David J. (Portland) Broker License #950500080

Stipulated order dated August 31, 2005 issuing a \$1,100 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-15-0050(2).

Grijalva, Robert A. (Madras) Broker License #901100096

Stipulated order dated July 25, 2005 issuing a \$600 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-15-0050(2).

Harnish, Justin T. (Portland) Temporary Associate Broker #200112017

Stipulated order dated June 20, 2005 issuing a \$600 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-15-0050(2).

Heil, Jon L. (Portland) Property Manager #951100174

Stipulated order dated July 15, 2005 issuing a \$100 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-15-0050(2).

Morrison, Kathy M. (Sherwood) Property Manager #871200032

Stipulated order dated June 24, 2005 issuing a \$100 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-15-0050(2).

Phillips, Mary L. (Corvallis) Broker #960900139

Stipulated order dated June 20, 2005 issuing a \$100 civil penalty; failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-15-0050(2).

Pioneer Escrow, Inc. (Pendleton) Escrow agent #200209012

Stipulated order dated June 24, 2005 issuing a \$4,000 civil penalty; failed to submit required financial information to the Agency within 120 days of its tax or accounting year end, OAR 863-050-0150(2); and failed to maintain its required bond amount for approximately three and a half months, ORS 696.525.

OTHER

Langley, Piper (Astoria) Broker #200205292

Stipulated order dated June 10, 2005 resulting in a limited license for 2 years. W (the seller) complained that the buyer's broker inappropriately returned earnest money to the buyer, and did not collect and hold additional earnest money. The buyer made an offer through Langley. The earnest money agreement called for \$1,000 earnest money at the time of the offer and an additional \$1,000 by a promissory note. Langley did not obtain a promissory note from her client as indicated in the offer to purchase. Langley did not collect the additional earnest money. Two options were marked regarding inspections on the offer. The two professional inspection processes and related inspection periods are in

conflict with each other. Langley did not provide a copy of the Professional Inspection Addendum to W. W modified the agreement by referencing Addendum A relating to professional inspections. Langley did not obtain the buyer's acceptance of W's modification. Langley received Addendum A signed by W but did not obtain the buyer's signature for 14 days. Langley failed to provide a copy of signed Addendum A to her principal broker. Langley received the Seller's Disclosure but did not ensure that the Seller's Disclosure was properly receipted by the buyer. The earnest money was returned to the buyer, based on the buyer's disapproval due to an inspection. However, a true inspection was never conducted; just a walk around the property by the buyer's friend, who claimed to have a contractor's license. W had a geological survey that disproved the buyer's concerns, but the earnest money was returned before W could complete the inspection proving the property was sound. Stipulated violations: represented on an offer to purchase that she had received earnest money in the form of a promissory note when in fact no promissory note had been written and she was not in receipt of a promissory note, ORS 696.301(1); failed to redeem the additional \$1,000 earnest money and failed to inform the sellers or their agent that the additional earnest money had not been redeemed and her client was in breach of contract, ORS 696.810(2)(c); failed to accurately compute the offer price, earnest money and down payment portion of the offer, selected two separate inspection options in the offer with conflicting time frames, failed to ensure that the seller received and agreed to the Professional Inspection Addendum, failed to provide a copy of the completed Addendum A to her principal broker, and failed to ensure that her buyer signed and dated receipt for the sellers property disclosure, ORS 696.301(28).



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