



Oregon Real Estate News-Journal

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SEPARATING MYTH FROM FACT

Scott Taylor, Real Estate Commissioner

“Half the people in America are faking it.” Are you one of them?

The above quote was uttered many years ago by the late actor, Robert Mitchum. Unfortunately, many of the things I have heard that have been purported to be license law lead me to believe that many real estate licensees may be faking it when it comes to their knowledge of what the law really is.

When I started in real estate in 1976, until 1993, changes to the law were relatively minor. 1977 saw

“So let’s dispel the myths and rely on the laws we have today. Licensees need to realize we’re in rapidly changing times and the laws that govern licensee conduct may need to change as well to remain relevant.”

prelicensing requirements enacted. 1983 saw a change in continuing education requirements. Other than that, the license law remained rela-

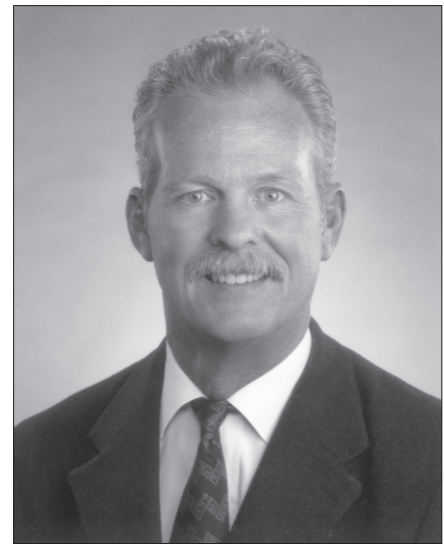
tively static, though there were the beginnings of change going on in the business itself.

In 1993, Agency Disclosure became mandatory and with it, the advent of buyer agency as a regular practice in Oregon. However, most of the laws that governed licensees’ conduct still related to the days of sub-agency.

The 90’s saw the beginnings of the impact of technology, the Internet, changing business models, and essentially a revolution in how business was conducted when compared with prior decades. Since then rapid change has been upon us and is expected to continue into the foreseeable future.

The law changes in 2001 were designed to cope with this situation. Because some of what was in statute is now in rule, the Agency is able to react quickly with the changing times, so that the law is relevant with current practice and the demands consumers are placing on the Real Estate Agency and the industry. Thus rules tend to change more frequently.

We at the Real Estate Agency understand that real estate licensees tend to like interacting with people and are not as a rule attracted to paperwork, minutia and constant reading.



Commissioner Scott Taylor

However, it is now important for licensees to stay on top of what appear to be constantly changing rules. You have signed up for an increasingly technical regulated industry. Faking it doesn’t work; licensees need to read the law, understand it, keep up with change, and attend to details or suffer the consequences.

There are several continuing myths about what the law allegedly says. What follows are some examples.

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SEPARATING MYTH: continued from page 1

MYTH: Original transaction documents belong with the listing agent. This myth should almost be dead, as the requirement left the law in the early 1980s.

FACT: Current law requires that records "... shall include complete, legible and permanent *copies* of all documents required by law or voluntarily generated during a real estate transaction" OAR 863-015-0250, emphasis added. ORS 696.280(3) goes on to say, "The records may be maintained in any format that allows for inspection and copying by the commissioner or the commissioner's representatives, as determined by the commissioner by rule." The rules for record retention are found at OAR 863-015-0260.

MYTH: Promissory notes taken for earnest money can only be made

out to the seller and not the broker.

FACT: OAR 863-015-0135(5) only requires the note be made payable to the seller in the absence of a written agreement to the contrary. Even then, it is a "soft" requirement in that the rule says "should" not "shall." Many preprinted sale agreement forms have a blank space in the receipt for earnest money paragraph where the payee's name, as well as the redemption date could be inserted. Some promissory note forms have a place for the seller to sign acceptance of the terms of the note, thus providing the written agreement to the contrary. As a risk management matter, brokers should understand that if the note is made payable to the broker instead of the seller, the broker likely assumes the duty to pursue the maker of the note, should the maker not redeem it.

MYTH: There is a law that states licensees must disclose if they are related to a seller or buyer.

FACT: First, there is nothing in either the rules or statute that specifically requires written notification by a licensee that they are working with a relative.

Before 1994, most licensees represented the seller regardless of whether they were working with the buyer or the seller. At that time a licensee working with a parent, child, sibling, etc. as a buyer disclosed that relationship, as it was either a potential or real conflict of interest against the interests of the seller.

The laws addressing the situation today follow.

ORS 696.805 and 696.810(3)(d) in each section require an agent to disclose any known or contemplated conflicts of interest to a client. ORS 696.815(4)(a) is the same for disclosed limited agents. Therefore, if the relationship were with the client, disclosure to an at-arms-length party would not be necessary. However the relationship to one side of a disclosed limited agency transaction could trigger disclosure to the other side.

It is possible the principal on the other side might be related. If that is

true, and if the situation could or does represent potential pecuniary benefit for the licensee (a conflict of interest), disclosure would be necessary.

Regarding ORS 606.805, 696.810(3)(c), and 696.815(4)(b), if licensees in this situation feel they are in a position where their loyalty to their client might be at issue, at a minimum, disclosure and consent would be necessary, or resignation as the client's agent could be necessary.

Licensees should use common sense in their disclosures. To try and spell this out more specifically will only create chaos, confusion and loopholes, in my opinion.

For example, I have a sister by blood and I have a stepsister as a result of my mother's second marriage when I was in my late 20's. I was married and had not lived at home for about 10 years. My stepsister was also married and lived in England at the time. I did not meet her until my mother's death 11 years after her second marriage. So which one am I required to disclose? What if I said I had spoken with my biological sister maybe three times since she left Oregon sometime in the 80's, we are not close and have no common financial interests. My stepsister and I are in regular contact, see each other when we are in the same state, are quite close, and we have given each other advice about financial matters? I would be much more likely to disclose my relationship with my stepsister.

So let's dispel the myths and rely on the laws we have today. Licensees need to realize we're in rapidly changing times and the laws that govern licensee conduct may need to change as well to remain relevant.

Our license law can be found at ORS 696 and at OAR 863 (www.rea.state.or.us). These laws are the statute and rules respectively. It is important that licensees know these laws and keep up with the changes. Faking it will not work in today's environment.

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EDUCATION REQUIRED FOR FORMER SALESPERSONS

Oregon's license laws were changed in 2001, and one of the primary changes was elimination of the salesperson category of license, along with additional education requirements.

If you held a salesperson license on June 30, 2002, your real estate salesperson license was converted to a temporary associate broker license. You must complete an Agency-approved 30-hour Associate Broker Transition Course (ABTC) before June 30, 2005.

The requirement applies whether your license is active, inactive, suspended, or expired¹. If you don't submit proof that you have completed the course by June 30, 2005, the Agency is required to cancel your license. If your license is cancelled, you would need to re-qualify to become licensed again, including completing a background check, pre-license education, and the broker licensing exam.

If your license is active, you must submit original certificate(s)² of attendance for the course and your license.

If your license is inactive, you do not have possession of your license, and submission of only the certificate(s) of attendance is required. Individual licensees – not the course providers or principal brokers – are responsible for submitting the required documents.

Although the ABTC course requirement is separate from continuing education requirements, a principal broker may permit affiliated brokers to use the ABTC course to meet the continuing education requirement.

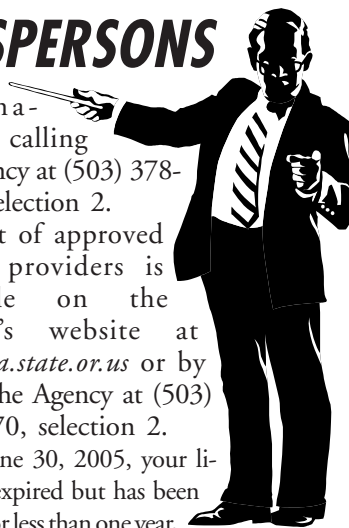
All licensees with a license profession type of "Temporary Associate Broker" must complete the ABTC. If you are unsure whether this requirement applies to you, or whether the Agency has received your certificate(s) and license, check the Agency's web-based Licensee Search at www.rea.state.or.us. If the Agency has already received your course certificates and license (if required), your license profession type will be "Broker." You may also confirm your license type or obtain additional

information by calling the Agency at (503) 378-4170, selection 2.

A list of approved course providers is available on the Agency's website at www.rea.state.or.us or by calling the Agency at (503) 378-4170, selection 2.

¹If on June 30, 2005, your license is expired but has been expired for less than one year, the requirement still applies. If your expired license is canceled, you will lose the option of renewing it. (Normally, an expired license can be renewed for up to one year from the date it expired.)

²Some Associate Broker Transition Course providers issue one certificate for the entire 30-hour course, and some issue five certificates, six-hours each. If you complete the course from a course provider that issue five certificates, all certificates must be submitted to the Agency to receive credit for the class.



SOCIAL SECURITY NUMBER DISCLOSURE – CLARIFICATION

Last month the Agency mailed out notices to all licensees regarding the collection and use of social security numbers by the Agency for various purposes. Following the mailing, the Agency received questions from licensees about the purpose or intent of the letter they received. This article is meant to clarify some of those questions.

The letter was mailed to comply with notice requirements regarding your social security number. Federal and state law require certain state agencies (including the Real Estate Agency) to collect social security numbers from persons applying for or renewing a professional or occupational license. The social security numbers collected are used for child support enforcement and tax administration purposes. Failure to provide a social security number on a license application for these purposes can be a basis to deny the application. The social security number can also be

used for other specific purposes only when you specifically authorize it.

The letter you were mailed notified you of the following specifics regarding the disclosure of your social security number: (1) whether or not disclosure of your social security number is mandatory; (2) the authority for requesting the social security number; and (3) the uses to be made of the social security number. This notice is required under the Federal Privacy Act of 1974, but the old license application form you completed did not contain it.

Licensees were given the option to object to the use of their social security number to identify licensees who might not have completed their license application, or who would not have provided a social security number on their application, if they were originally given the notice. If you would have provided your social security number knowing of the permitted uses for it,

there is no need to respond to the Agency's letter. If you have not yet returned the form to the Agency, and you determine that you would not have provided your social security number, you should complete the objection form and return it to the Agency so that your social security number is not used for any of the identified purposes. (Licensees who have already completed the form objecting to disclosure will be contacted by the Agency for clarification about the nature of their objection.)

Please be aware that failure to provide your social security number for child support enforcement or tax administration purposes on a future license application (including for renewal) will be grounds for license denial.

If you have any questions, please feel free to contact Licensing Manager Selina Barnes at 503-378-4170, extension 224.



TIME IS RUNNING OUT!

KNOW THE EDUCATIONAL REQUIREMENTS TO KEEP YOUR LICENSE

Real estate license law changed July 2002. If you were licensed as a salesperson in Oregon on June 30, 2002, or obtained your first real estate license in Oregon after July 1, 2002, you must take action to keep your license. Here is what you must do.

**If you are an active or inactive
ASSOCIATE BROKER
(former SALESPERSON)*,
you must:**

1. Take the 30-hour Associate Broker Transition Course. [For a list of schools, visit our web site at www.rea.state.or.us or call us at (503) 378-4170.] The course can be used to satisfy continuing education requirements with your principal broker's permission.
2. After finishing the course, send the following items to the Real Estate Agency at 1177 Center Street NE, Salem, OR 97301:
 - your original Associate Broker Transition Course certificate; and
 - your original associate broker license.

We will send you a broker license.

DEADLINE: June 30, 2005. If the Agency does not received your Associate Broker Transition Course certificate postmarked by June 30, 2005, your license will be canceled. For more information on canceled licenses, see below.

Note: You do not need to complete the broker licensing exam to make the transition from associate broker to broker. However, to become a sole practitioner or principal broker, examination and education requirements may apply. Contact the Agency at (503) 378-4170, for more information.

* These requirements apply if you were licensed as a salesperson on June 30, 2002. You automatically received a temporary associate broker license from the Agency in July, 2002. If you supervise a licensed personal assistant, additional requirements apply. Effective January 2, 2004, only principal brokers can supervise licensed personal assistants.

**If you are an active
BROKER**

originally licensed after July 1, 2002, you must:

1. Take the 30-hour Advanced Real Estate Practices course from an approved course provider. [For a list of schools, see "Where to Find Hard-to-Find Classes" on page 5, visit our web site at www.rea.state.or.us or call us at (503) 378-4170.] The course can be used to satisfy continuing education requirements with your principal broker's permission.
2. Submit proof of completion of the Advanced Real Estate Practices course to your principal broker. Your principal broker will then certify on your license renewal form that you have completed the course. Do not send proof of course completion to the Real Estate Agency.

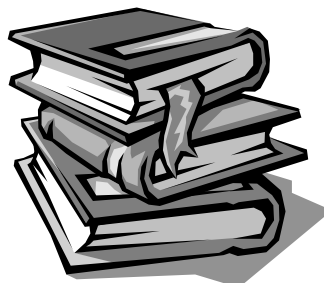
DEADLINE: First license renewal. Your first license is valid from the date of issue for one year and then onto the last day of the month of your birthday. **This means your first renewal date may be less than 13 months after obtaining your license.** For example, if your first license was issued in December 2003, and your birthday is in January, your license would renew January 31, 2005.

**If your license is
CANCELED:**

If you fail to complete the required transition course within the time allowed, your license will be canceled. If your license is canceled, you must immediately stop conducting licensed real estate activity. To obtain a license again, you would need to complete all requirements for initial licensure before applying for a license. These requirements include pre-license education, the required license exam and a background check.

If you held any type of Oregon broker license prior to July 1, 2002, or you currently have a principal or sole practitioner broker license, you must meet the normal continuing education requirements at your license renewal. Visit www.rea.state.or.us for information on continuing education requirements. If you have questions about license requirements, please contact the Licensing Section at (503) 378-4170, selection 2. If you have questions about education or examination requirements, please contact the Education Section at (503) 378-4170, extension 251 or 260.

WHERE TO FIND HARD-TO-FIND CLASSES



New courses are approved and added to the Agency's list of approved classes regularly. Check out the Agency's web site at www.rea.state.or.us for the latest list of providers approved to offer pre-license, post-license, and transition courses. You may also receive the list by mail by calling the Agency at (503) 378-4170, selection 2.

The following is a list of approved course providers currently offering or scheduled to offer hard-to-find required courses:

BROKERAGE ADMINISTRATION AND SALES SUPERVISION

American College of Real Estate, live lecture, (503) 247-9311

onlineEd, online or live lecture, www.onlineed.com or (503) 636-4580

ProSchools, live lecture, www.proschools.com or (800) 452-4879

Quality Real Estate School, independent study at home or school, (541) 389-9585

Warren's Real Estate School, live lecture, (541) 997-1142

REAL ESTATE PROPERTY MANAGER (PRE-LICENSE)

Lane Community College, live lecture, (541) 463-5906

Portland Community College, online or live lecture, (503) 977-4393

ProSchools, live lecture, www.proschools.com or (800) 452-4879

Warren's Real Estate School, live lecture, (541) 997-1142

ADVANCED REAL ESTATE PRACTICES

American College of Real Estate, live lecture, (503) 247-9311

Careers Real Estate School, live lecture, (541) 302-4846

Coldwell Banker Mountain West Real Estate School, online (503) 364-9596

onlineEd, online or live lecture, www.onlineed.com or (503) 636-4580

ProSchools, online, live lecture or independent study at home, www.proschools.com or (800) 452-4879

Oregon Association of Realtors® (OAR),* live lecture, (503) 362-3645 or (800) 252-9115

Pro-Studies, online, www.pro-studies.com, (541) 388-1021 or (888) 903-1021

Quality Real Estate School, independent study at home or school, (541) 389-9585

Real Estate Institute of Greater Portland, live lecture or independent study at home, (503) 665-6780

Warren's Real Estate School, live lecture, (541) 997-1142

* Please note: In April 2004, OAR incorporated an Advanced Real Estate Practices (AP) component as part of its Graduate Realtor Institute (GRI) series. The Agency reminds licensees that OAR's entire GRI series (100, 200 & 300), plus a specially designed property management class offered by OAR and onlineEd, must be completed to satisfy the entire AP requirement, and these classes may require up to 24 months to complete. Because most licensees' first renewal periods run less than two years, please be aware there may not be enough time to complete the AP course requirements via the GRI series. For more information on renewal and AP course requirements, please see the Agency's brochure "Continuing Education Requirements", or call (503) 378-4170, extension 251 or 260.

ILLEGAL DRUG MANUFACTURE SITES

Problems related to methamphetamine use, illegal drug manufacture and the resulting contamination of sites have been on the rise. The Governor has taken an active role in attacking the problem, and State Senator Avel Gordly's office has contacted the Agency. Contaminated sites pose serious health hazards for real estate consumers and brokers who might be unaware a site is contaminated. It is a good time to review the pertinent laws and rules, and the means for identifying such sites.

According to the federal Drug Enforcement Administration and the State of Oregon Drug Lab Cleanup Program, methamphetamine is a toxic and highly addictive drug. It can be easily manufactured in clandestine laboratories, often found in homes and rental properties. The manufacture of methamphetamine releases poisonous gas into the atmosphere and creates toxic waste. Those who visit the sites face the risk of injury, illness, and explosions. According to the DEA, in 2001 there were 12,715 methamphetamine laboratory incidents reported in 46 states, with the West Coast accounting for most of the laboratory incidents.

Since 1990, Oregon law has provided a means of identification and cleanup of contaminated sites. Under ORS 453.855 to 453.912, real estate may be declared unfit for use upon a determination that it has been used, or that there are reasonable grounds to believe it has been used, as an illegal drug manufacturing site. Public officials authorized to make a determination whether a property is fit for use include the Director of Human Services or designee, the State Fire Marshall or designee, or any law enforcement agency. The determination renders the property not fit for use and prohibits any further habitation or use of the property (including rental or lease) until the property has been decontaminated by a contractor licensed by the Health Division of the Department

of Human Services, or pursuant to Oregon Administrative Rules 333-040-0065. Properties are posted as unfit for use to prevent innocent third parties from entering contaminated sites.

The laws and rules provide that no person shall transfer, sell, use, or rent any such property unless it is officially certified as fit for use. Any contract or agreement for the transfer, sale, use or rental of real estate that has been declared unfit for use is voidable by the person who would receive, use, buy or rent the real estate under such agreement. Any note or evidence of indebtedness given to a third party who financed the transaction is not voidable.

The Building Codes Division of Oregon's Department of Consumer and Business Services maintains a list of the properties that have been declared to be unfit for use at www.cbs.state.or.us/external/bcd/druglabs/druglabs.html. Or, contact the Building Codes Division at 503-378-4133 for more information.

Real estate that has been declared unfit for use may be sold before a Certificate of Fitness is issued only following full written disclosure to the buyer or transferee. The disclosure must attach to the earnest money agreement and the sale document on the real estate. The owner shall provide a copy of the disclosure statement to the Oregon Building Codes Division and the Oregon Health Division within 10 days of the closing of the sale or transfer.

The disclosure must contain at a minimum:

- A verbatim statement as follows: **"The property in this transaction has been determined to be an illegal drug manufacturing site and cannot be rented, leased, entered or used for any reason without first being issued a Certificate of Fitness by the Oregon Health Division."** The statement shall be in 10-point bold type or equivalent;
- A brief description of the property

including street address and legal description;

- A brief description of the kind and location of all drug manufacturing activities on the property if known;
- The name and address of the owner of record and of the buyer or transferee;
- The date of the transfer;
- The name and address of the agency that made the determination that the real estate was unfit for use; and
- A photocopy of the written notice of determination that the real estate was unfit for use.
- If the required disclosure is not provided to the purchaser, the purchaser may void the transaction and bring suit to recover damages resulting from the failure to disclose. The seller of such property must notify the Department of Human Services of the sale.

If real estate has been declared unfit for use, ownership of that real estate will also be tracked by the Building Codes Division, and changes in ownership of the real estate will be reflected on the list.

At the least, real estate licensees should assure that they are familiar with existence of and how to access the Building Codes list of contaminated properties. They should be aware the seller cannot transfer, sell, use, or rent any such property unless it is officially certified as fit for use.

Further, it is suspected that not all contaminated properties are on the list, and although notice of unfitness for use must be firmly affixed, notices might have been illegally removed.

In addition to being aware of all listed contaminated sites, licensees can be proactive in recognizing the "red flags" associated with illegal drug manufacturing sites. Physical traces include

- Chemical bottles/glass containers, pressurized cylinders, hoses/tubing, and bottles or "blister packs" of ephedrine or pseudoephedrine.
- Red to orange stains in the bathroom and/or kitchen

- Excessive trash
- Strong odor of solvents (ether-, ammonia-, vinegar-like odors)

Or you might have been told by the owner or by neighbors that the dwelling has been used as an illegal drug manufacturing site.

If either observed physical traces of chemicals or any information on past illegal uses could give you reasonable cause to believe that the dwelling has been used as an illegal drug manufacturing site, do not enter the site, and notify the owner and the closest local police or sheriff's office, the local fire department or the local or state health officials of the suspected contamination. In addition to the prohibitions in ORS Ch. 453, a real estate licensee has an obligation under ORS Ch. 696 to exercise reasonable care (including protecting clients and other licensees from the dangers of a contaminated site) and to notify parties of material facts. But as indicated above, the owner may have the licensee engage in sales and transfer activity for the real estate after complying with the decontamination laws and special disclosure requirements.

Additional information is available at the above Building Codes website and the Oregon Department of Human Services website (www.dhs.state.or.us/publichealth/druglab/index.cfm). Also, local law enforcement entities and the Oregon State Police may be available to provide specific training about recognizing and reporting contaminated sites. Information about complying with Real Estate License Law is available on the Agency's website at www.rea.state.or.us, or by calling 503-378-4170, selection 4.



WEBSITE CHANGES

The Agency will migrate the content of its website to the State of Oregon portal, effective December 31. State agencies are required to make the change to facilitate e-government; to provide a secure e-commerce process; to assure a "common look and feel" and seamless navigation among agency websites; and to provide a uniform search mechanism.

Agency staff is working to assure a one-to-one conversion of the pages, but there are some limitations based on the state's content management

tool and templates. The Agency will work in the months following the migration to refine content and navigation.

Other changes have already been made to the Agency's website, including addition of "Licensing Frequently Asked Questions."

The Agency believes its website will improve with the migration, and appreciates your forbearance during the transition. You may visit the Agency website at www.rea.state.or.us.

STAFF CHANGES

In December, 2004, Selina Barnes was selected as the Agency's Licensing Manager. She replaced Marguerite Kenagy, Licensing Manager since July 2002, who accepted employment with the Marion County Commission on Children and Families.

Ms. Barnes is experienced in licensing, supervision, and investigation. She has served as an Investigator/Auditor with the Agency since December 2002, was a Special Investigator with the Construction Contractors Board, and served as a Police Officer and Detective with the Salem Police Department. She holds an AA in Criminal Justice.

Two vacant Investigator/Auditor positions were filled by the Agency.

- Jeannette Hartwell joined the Agency in November. She previously worked as a Criminal Investigator with the Oregon Department of Human Services, as an Inspector/Investigator with the Oregon Liquor Control Commission, and as a Revenue Agent with the Oregon Department of Revenue. She has extensive coursework in Business Management, and holds an Associate of Science degree in Real Estate from Chemeketa Community College.
- Joyce Pierce began employment with the Agency in December. She was previously employed by the



Oregon Employment Department as an acting Tax Supervisor, and as an Employer Tax Auditor, and by the Oregon Liquor Control Commission as a Fiscal Auditor, and she has other accounting and bookkeeping experience.

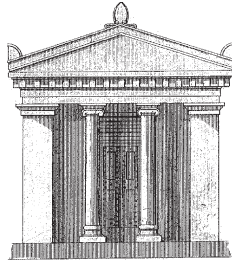
On behalf of the Agency, Commissioner Scott Taylor congratulates Ms. Barnes, welcomes Ms. Hartwell and Ms. Pierce and thanks Ms. Kenagy for her contributions to the Agency.

Correction

The September 2004 edition of the *OREN-J* stated that Public Service Representative Christy Davis "was a sales associate for brokerages in Albany between 1994 and 1998." Ms. Davis was a sales associate for ERA Ransom and Smith in Albany, which was acquired by John L. Scott, between 1994 and 2000.

ADMINISTRATIVE ACTIONS

September 1, 2004 through October 31, 2004



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

Kerley, Paul A. (Salem) Broker (sole practitioner) # 950400037 License revoked by hearing order July 30, 2001, to be effective August 4, 2001, stayed pending appeal, July 30, 2001. Hearing order reversed by Court of Appeals October 19, 2002; Court of Appeals decision reversed by Supreme Court September 10, 2004. Demonstrated bad faith, untrustworthiness, dishonest, fraudulent, or improper dealings in embezzling funds from two business partnerships involving interests in real estate in 1993, prior to becoming licensed in 1995, ORS 696.301(31). On judicial review, the Court of Appeals reversed the Commissioner's order revoking Kerley's license, holding that, under the Oregon Supreme Court's recent interpretation of ORS 696.301 in *Dearborn v. Real*

Estate Agency, the Real Estate Commissioner lacked authority to revoke or suspend a real estate license. The decision stated, "...even though [Kerley's] conduct demonstrated untrustworthiness and improper dealings, that conduct did not occur while he held a real estate license and therefore did not relate to professional real estate activities." *Kerley*, 184 Or App at 169. In its opinion, the Supreme Court clarified that ORS 696.301 requires that the acts "...relate substantially to the [licensee's] fitness and ability to engage in real estate activity." *Dearborn II*, 334 Or at 505. Here, Kerley's dishonesty met that criterion and justified the Commissioner's conclusion that Kerley should not continue by virtue of his licenses to be placed in a position of confidence and trust respecting other people's money and property." *Kerley v. Real Estate Agency*, 337 Or at 318. The Court went on to say that ORS 696.301(31) does not impose a requirement that the acts must have been committed after the licensee received a license.

SUSPENSIONS

Peterson, Gary W. (Roseburg) Temporary Associate Broker #980600098 Stipulated order dated October 27, 2004 issuing a 60 day suspension effective November 1, 2004; for more than two weeks, failed to notify RMLS or document on RMLS that his client had accepted an offer with a home-sale contingency, ORS 696.301(28). ORS 696.301(1); transmitted to another real estate agency's broker and her client a portion of a sale contract between Peterson's client and another party, knowing the other broker and her client were not party to the transmitted sale document and without the permis-

sion of the principals who were, ORS 696.805(3)(a)(f); and knowingly allowed his client, the seller, to accept a second offer after the seller had already accepted another offer with a contingency, without providing any writing ensuring the seller accepted the second offer in a secondary or back-up position.

Smith, Michael J. (Eugene) Broker #880500054

Stipulated order dated September 1, 2004 issuing a 30 day suspension effective September 3, 2004; solicited a property listing after he was notified that the property was listed with another broker, ORS 696.301(16); did not prominently display principal broker's name in advertising, did not include principal broker's telephone number in advertising, and did not make his advertising available to his principal broker before use, OAR 863-015-0125(4).

REPRIMANDS

Hittenberger, Shawn H. (Eugene) Principal Broker #980500010

Stipulated order dated September 9, 2004; failed to review advertisements and allowed his licensee to use advertisements that were in violation of Oregon Administrative Rules, ORS 696.301(29).

Maloney, Gina K. (Portland) Broker #930700123

Stipulated order dated October 28, 2004. Maloney represented the buyers. Closing and possession dates changed many times during the transaction. Maloney and the buyers moved some of the sellers' possessions into the garage prior to confirming the closing had occurred which affected the possession date. Maloney did not confirm the transaction had closed before entering the property and allowing

the buyers into the property, a violation of ORS 696.301(28).

Martinsen, Angela M. (Roseburg) Temporary Associate Broker #199910178 Default Order dated September 20, 2004; representing both buyer and seller, wrote an addendum to a sale contract in which the principals agreed to establish a holdback escrow account for repairs after closing, and failed to include terms for disposition of an account balance and procedures to ensure all principals authorized final payment for repairs, OAR 863-015-0135(5); directed escrow to reimburse the buyer for smoke alarms with funds from the holdback escrow account which such reimbursement was not agreed upon in writing by the principals in the sale agreement, ORS 696.301(28); and failed to secure the dates and times of principals' signatures on three addenda, OAR 863-015-0135(3).

Phillips, D. R. (Portland) Broker #970700094 Stipulated order dated October 26, 2004 issuing a reprimand and a \$300 civil penalty; while acting as a listing agent, produced an advertising flyer and entered data into the multiple listing service stating that the listed property measured 1738 square feet when it actually measured 1483 square feet, he failed to measure the house properly and he unilaterally represented the square footage which differed from the previously published square footage, ORS 696.815(2)(a)(b); and failed to renew real estate license for a period of time while continuing to conduct professional real estate activity, OAR 863-15-0050(2).

Shannon, Timothy C. (Portland) Broker #890800048 Stipulated Order dated October 26, 2004; failed to note the date and time of the buyer's signature on the offer and counter offer in a

failed transaction, OAR 863-015-0135(3); failed to check the "accepted" box in the agreement to purchase section of a counter offer, ORS 696.301(28); and failed to take affirmative steps to determine if the buyer was able to close by the closing date or needed to ask for an extension to closing, ORS 696.815(2)(b).

CIVIL PENALTIES

AmeriTitle (Bend) Escrow Agent #960300017

Stipulated order dated September 10, 2004 issuing a \$500 civil penalty; disbursed funds from an escrow holdback account to pay for repairs relative to insulation, water heater, heat pump, septic tanks, and smoke alarms, contrary to the written escrow instructions of the principals, OAR 863-050-0055(8) (2003 Edition) and OAR 863-050-0055(4) (2004 Edition); and drew up for signature and then accepted escrow instructions of both buyer and seller that did not acknowledge the intent of the principals or terms of the real estate sale agreement regarding specific disbursement of repair funds from a holdback account, then disbursed funds for repairs not authorized by the escrow instructions, ORS 696.581(2).

Baxter, Aimee M. (Salem) Temporary Associate Broker #980600027

Stipulated order dated September 14, 2004 issuing a \$300 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).

Chapin, Michael (Portland) Temporary Associate Broker #200002080

Stipulated order dated September 20, 2004 issuing a \$200 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).

Chicago Title Insurance Company of Oregon (Portland) Escrow Agent #850600304

Stipulated order dated September 1, 2004 issuing a \$500 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).

Fidelity National Title Company of Oregon (Portland) Escrow Agent #850600354

Stipulated order dated September 14, 2004 issuing a \$1,500 civil penalty; had a negative net worth from October 2002 through June 2003, ORS 696.535(1)(a); and failed to submit required financial information to the Agency within 120 days of its tax or accounting year end, OAR 863-050-0150(2).

Harney County Title Company (Burns) Escrow Agent #950600317

Default order dated September 14, 2004 issuing a \$2,500 civil penalty; engaged in the business of an escrow agent in Bend under the name of West Coast Title & Escrow Company before obtaining a license to do so, and failed to register West Coast Escrow & Title Company as the name they wished to conduct escrow agent business under in its Bend office, ORS 696.511(2)(a).

Hutchins, Urban K. (Portland) Temporary Associate Broker #200111062

Stipulated order dated September 20, 2004 issuing a \$500 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).

ADMINISTRATIVE ACTIONS: *continued on page 10*

ADMINISTRATIVE ACTIONS: *continued from page 9*

Ingraham, Christopher J. (Bend) Broker #950800157
Stipulated order dated September 20, 2004 issuing a \$1,400 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).

Kaczor, George R. (Medford) Broker #930900077
Stipulated order dated September 22, 2004 issuing a \$250 civil penalty; continued to conduct professional real estate activity after his organization license expired, ORS 696.020 (1999 and 2001 Editions).

LandTitleEscrow.com (Ontario) Escrow Agent #200301074
Stipulated order dated September 8, 2004 issuing a \$750 civil penalty; failed to notify affected parties of a mistake in overlooking the fact that a pay-off needed to be approved, ORS 696.535(1)(e).

Logiudice, Anne M. (Portland) Broker #200007098
Stipulated order dated October 19, 2004 issuing a \$500 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).

Strange, William A. (Portland) Broker #199910083
Stipulated order dated October 14, 2004 issuing a \$1,000 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).

Ticor Title Insurance Company (Portland) Escrow Agent #920900176
Stipulated order dated September 3, 2004 issuing a \$500 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).

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.

1. Publication Title: Oregon Real Estate News-Journal. 2. Publication No.: 9052-20. 3. Filing Date: 09/24/04. 4. Frequency of Issue: Four Times Per Year. 5. No. of Issues Published Annually: 4. 6. Annual Subscription Price: \$2.00. 7. Known Office of Publication: 1177 Center Street NE, Salem, Oregon 97301-2505. 8. Headquarters of General Business: Same. 9. Names, Address of Publisher, Editor, Managing Editor: Oregon Real Estate Agency, Same; Betty Reynolds, Same; Betty Reynolds, Same. 10. Owner/Address: Oregon Real Estate Agency, Same. 11. Known Bondholders, Mortgagees, and Other Security Holders: None. 12. Tax Status: Not applicable. 13. Publication Title: Oregon Real Estate News-Journal. 14. Issue Date for Circulation Data Below: June 2004. 15. Extent and Nature of Circulation: A. Total No. Copies: Average no. copies each issue during preceding 12 months: 22,500 (No. copies of single issue published nearest to filing date: 24,500.) B. Paid Circulation: 1. Paid/Requested Outside-

County Mail Subscriptions: 22,058 (average), 24,225 (single issue). 2. Paid In-County Subscriptions: 0 (average), 0 (single issue). 3. Sales through dealers and carriers, street vendors and counter sales: 0 (average), 0 (single issue). 4. Other classes mailed through the USPS: 0 (average), 0 (single issue). C. Total Paid Circulation: 22,058 (average), 24,225 (single issue). D. Free Distribution by Mail: 1. Outside County: 0 (average), 0 (single issue). 2. In-County: 0 (average), 0 (single issue). 3. Other classes mailed through the USPS: 6 (average), 10 (single issue). E. Free Distribution Outside the Mail: 363 (average), 221 (single issue). F. Total Free Distribution: 369 (average), 231 (single issue). G. Total Distribution: 22,427 (average), 24,285 (single issue). H. Copies not distributed: 73 (average), 44 (single issue). I. Total: 22,500 (average), 24,500 (single issue). J. Percent Paid and/or Requested Circulation: 98% (average), 99% (single issue). 16. This statement of ownership will be printed in the December 2004 issue of this publication. 17. I certify that the statements made by me above are correct and complete, (signed) Betty Reynolds, Editor.

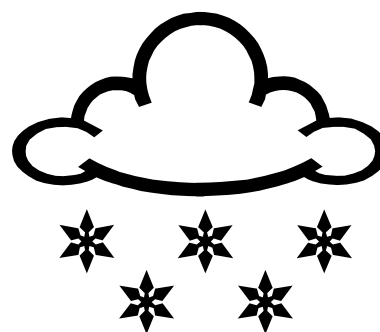
BACKGROUND CHECK, FINGERPRINT CARD CHANGES

The Background Check Application form required to obtain a license has been revised to more clearly explain the information requested. The new three-page form is available to print from the Agency's website at www.rea.state.or.us/Forms/Licensing/Background%20Check%20Application.pdf. The Agency will no longer accept the two-page form. This change affects those people seeking real estate broker or property manager licenses who have not yet submitted their background check application. Current licensees are not affected by this change as long as they remain licensed.

Real estate schools and real estate offices that have *Real Estate License and Examination Information* booklets containing the old two-page form should direct potential licensees to print out the three-page form from the Agency's website listed above, or call the Agency at (503) 378-4170, selection 2 to request the form.

Additionally, due to an Oregon State Police policy change effective September 22, 2004, only one fingerprint card is required to meet background check requirements. Real estate schools and real estate offices are asked to advise prospective licensees that only one fingerprint card is now required.

The background check process can be lengthy, and we greatly appreciate your cooperation in assisting potential licensees to complete the process as quickly as possible.





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