



Oregon Real Estate News-Journal

Official Publication of the Oregon Real Estate Agency

Vol.60

December 2006, Salem, Oregon

No. 4

ONE LAST TIME

Scott W. Taylor, Real Estate Commissioner

This will be my last article in this publication before I depart the Agency and return to the private sector.

The last eleven-plus years have been challenging, invigorating, frustrating, and rewarding. I feel lucky and privileged to have been able to serve the citizens of Oregon in this manner.

In my first *OREN-J* article, I said the following: "There are no gains without risks and risk taking brings failures with its successes. I expect the next few years to be invigorating, frustrating, yet personally rewarding for the Agency and myself." How true that statement was.

I could go on about all of the things that were accomplished during my tenure; a lot of things were accomplished. The Real Estate Agency is not about the Commissioner. It is about the consumer and the betterment of the practice of professional real estate brokerage, and all that entails. It is about approving condominium projects and the assurance that the necessary by-laws and disclosures are accurate and in place. It is about ensuring escrow compa-

nies are properly established and operate in conformance with the law. It is about a dedicated staff that rarely gets the credit it deserves for the work it does.

Over the next few months, the structure of the Real Estate Board, its responsibilities and powers likely will be discussed by the Legislature. Any resulting legislation will not only impact the Commissioner's position, it will also impact every real estate licensee, consumer of real estate services and the services the Real Estate Agency provides.

The real question is not whether the Real Estate Board is advisory or policy making in its capacity, it is whether the resulting changes continue to protect the consumer while encouraging a healthy, professional real estate industry. A couple of years ago I remarked that if it isn't good for the consumer, it isn't good for the industry.

It is important that the consumer does not get lost in the legislative debate. I am emphatic that we NOT let that happen. After all, if there were no consumers of real estate services, there would be no work for real es-



Commissioner Scott Taylor

tate licensees. If the real estate industry does not meet the needs and wants of the consumer in a professional and competent manner, the consumer will look elsewhere for those services. In the end, the consumers will get what they want.

I've had the opportunity over the past eleven years to meet many people from all over Oregon, the United States and the world. The real

ONE LAST TIME: *continued on page 2*

IN THIS ISSUE

Commissioner Announces Retirement	2	HOA Managers/Community Managers	
Real Estate Board Meeting Dates, Locations	2	Do Not Need License	4
Course Required for New and Relicensed		Agency Employees to Participate in Food Drive ..	5
Brokers	3	Job Announcements Now on Website	5
Lead-Contaminated Soil and the		Administrative Actions	6
Lead Disclosure Rule	3		

ONE LAST TIME: *continued from page 1*

estate professionals I have encountered have been from all walks of life and varying professional levels. The vast majority of licensees are of high ethical and professional standards.

I've also encountered some who were unscrupulous individuals who took advantage of consumers and I felt compelled and obligated to revoke their license. My commitment to the consumer AND the industry is as strong today as it was eleven years ago.

I love the real estate business, and I'm proud of what has been accomplished while I've been in this position. I leave the Agency with a good feeling, looking for a new challenge.

After December 31, 2006, I can be reached at *sltaylor2@comcast.net*.

COMMISSIONER ANNOUNCES RETIREMENT

Commissioner Scott W. Taylor has announced his retirement after 11 years heading the Oregon Real Estate Agency.

"Scott has been a valuable partner in improving Oregon's business climate and strengthening consumer protections," said Governor Ted Kulongoski. "I appreciate his tenure and service during this period of strong growth."

Taylor was appointed in 1995 by Governor John Kitzhaber.

Prior to holding the post of commissioner, Taylor served as managing broker for a two-office brokerage firm in southern Oregon. He is a past president of the Oregon Association of Realtors, served as the regional vice president of the National Association of Realtors (NAR) and was the 1998 chair of the NAR License Law Committee. More recently, Taylor has served on the board of directors of the Association of Real Estate License Law Officials and was the organization's president in 2004.

"I have experienced at least three other Commissioners during my career," said Realtor Ruby Brockett of Prudential in Eugene. "Scott Taylor's

experience as an active broker enabled him to know what it is like to work in the real estate industry. He has improved the public perception of the Agency and reduced fear of the Agency within the industry."

Phil Querin, a partner at Davis Wright Tremaine, also praised Taylor, stating, "Scott Taylor has always worked for the betterment of the consumer and the real estate industry. I have never seen him depart from that agenda."

Taylor graduated from Southern Oregon University with a degree in Political Science. He received his mediation training from Pepperdine University Law School Dispute Resolution Section, in association with TRG National Associates, and administrative hearing officer training from the National Judicial College in Reno, Nevada. Taylor also holds both GRI and CRB professional designations.

The Governor asked the Department of Administrative Services to initiate a search for the next Real Estate Commissioner, with the goal of having a new commissioner in place before the start of the next legislative session.

OREGON REAL ESTATE
NEWS-JOURNAL
(USPS 905-220)

Official Publication
Oregon Real Estate Agency
1177 Center St. N.E. - Salem, Oregon 97301-2505
Telephone: (503) 378-4170
Facsimile: (503) 378-2491 Licensing
(503) 373-7153 Regulation
(503) 378-2491 Administration
Web Page: <http://www.rea.state.or.us>

OREGON REAL ESTATE AGENCY
Theodore R. Kulongoski, Governor
Scott W. Taylor, Commissioner

REAL ESTATE BOARD

- Michael Graeper, Chairperson Portland
- Troy Costales Keizer
- Victor Kee Astoria
- Arthur Kegler Boardman
- Robert La Du Portland
- Maxine Ribera-Card Bend
- Vada Salinas Salem
- Marianne Wood Eugene
- John Zupan Medford

The *Oregon Real Estate News-Journal* is published four times a year by the Oregon Real Estate Agency as an educational service to all real estate licensees in the state under the provisions of Section 696.445 of the Oregon Revised Statutes. \$4.00/biennium subscription fee included in real estate license fee. All other subscriptions \$2.00 per year. POSTMASTER: Send address changes to *Oregon Real Estate News-Journal*, 1177 Center St. N.E., Salem, OR 97301-2505.

Mesheal Heyman, Editor

VOL. 60-No. 4 December 2006
Periodicals postage paid at Salem, Oregon

2006-2007 REAL ESTATE BOARD MEETING DATES, LOCATIONS

- December 19, 2006 (UPDATED) Salem
- February 12, 2007 Salem
- April 16, 2007 Medford
- June 18, 2007 Salem
- August 20, 2007 TBA
- October 15, 2007 Salem
- December 17, 2007 Salem

All Board meetings scheduled for Salem are held at 10 AM at the Oregon Real Estate Agency office, 1177 Center St. N.E. Call (503) 378-4170, extension 260, for additional information on Board activities.

COURSE REQUIRED FOR NEW AND RELICENSED BROKERS

You must complete the Oregon Real Estate Agency-approved Advanced Real Estate Practices course (AP) if you:

- received your very first Oregon real estate broker license on or after after July 1, 2002 (this does not include licensees who were required to take the Associate Broker Transition Course); or
- let a previous Oregon license expire (or otherwise lapse) and obtained a new broker license on or after July 1, 2002.

The AP course is a specific 30-hour course that must be completed be-

fore your first active 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 May 2006, and your birthday is in June, your license would renew June 30, 2007.

If your license is inactive at the time of renewal, you do not need to

take the AP course until you reactivate your license.

Principal brokers, sole practitioner brokers and property managers are not required to take the AP course.

Although the AP course requirement is separate from continuing education require-

ments, a principal broker may let affiliated brokers use the AP course to meet the continuing education requirements.

If you do not know if you need to take the AP course, please contact the Agency at (503) 378-4170.

When affiliated brokers complete the AP course, the course certificate must be given to their principal broker. The principal broker signs the licensee's renewal form stating that the course has been completed, and then keeps the certificate for six years as required by ORS 696.280(2) and (3).

A list of approved providers for the AP course can be found in the document called Approved Pre-License and Post-License Real Estate Education, which can be obtained from the Agency's website at www.rea.state.or.us, or by calling the Agency at (503) 378-4170.



Who needs to complete the AP course?

- Affiliated brokers first licensed on or after July 1, 2002.
- Any affiliated broker who had a license prior to July 1, 2002, let it expire, and became relicensed on or after July 1, 2002

Who does not need to complete the AP course?

- Affiliated brokers who got their first license before July 1, 2002. (If you were required to take the Associate Broker Transition Course, you do not need the AP course.)
- Principal Brokers
- Sole Practitioner Brokers
- Property Managers

Check with the Agency's Education Section, (503) 378-4170, extension 251, if you received your license through a reciprocal license agreement.

LEAD-CONTAMINATED SOIL AND THE LEAD DISCLOSURE RULE: WHAT YOU NEED TO KNOW

Editor's Note: This information was provided by the Environmental Protection Agency's (EPA) Region 10 Community Involvement Program.

Real Estate Professionals: Did you know that lead-contaminated soil is part of lead disclosure requirements?

Learn more about your obligations in a new brochure about leaded soil and the Lead Disclosure

Rule. The brochure is called "Lead-Contaminated Soil — Residential Real Estate Transaction Disclosure Requirements: Information for Owners, Landlords & Sellers, Buyers and Renters, Real Estate Agents." It explains the terms "lead-based paint hazard" and "soil lead hazard." The brochure also lists the obligations of the seller, landlord, and real estate agent to disclose

before the purchase and lease of housing built before 1978.

Download the tri-fold brochure from the EPA Region 10 Lead Program website: <http://epa.gov/region10/leadsoil.pdf>. Or, for a hard copy, call EPA's Public Environmental Resource Center at (206) 553-1200 or (800) 424-4372. If you have any questions, call Javier Morales, EPA, at (206) 553-1255.

HOA MANAGERS/COMMUNITY MANAGERS DO NOT NEED LICENSE

QUESTION:

Does a person (or company) who manages a homeowners association (HOA) need a license from the Oregon Real Estate Agency or any other state government entity?

ANSWER:

No. The answers are found in Chapter 696.

HOAs typically assess the owners (members of the HOA) fees to pay for the expenses of the association. These expenses often include regular maintenance (landscaping work) and long-term repairs and replacements (re-roofing, repainting). An HOA may hire a person or organization to manage the HOA. In the HOA industry, these people are called “community managers.” They collect assessments, make sure contractors are hired, pay common expenses, file annual report, update reserve studies, etc.

The definition of “real estate property manager” is found in ORS 696.010(15):

“Real estate property manager” means a real estate licensee who is authorized to engage in management of rental real estate.

The definition of “management of rental real estate” is found in ORS 696.010(9):

“Management of rental real estate” means:

(a) Representing the owner of real estate in the rental or lease of the real estate and includes but is not limited to:

(A) Advertising the real estate for rent or lease;

(B) Procuring prospective tenants to rent or lease the real estate;

(C) Negotiating with prospective tenants;

(D) Accepting deposits from prospective tenants;

(E) Checking the qualifications and creditworthiness of prospective tenants;

(F) Charging and collecting rent or lease payments;

(G) Representing the owner in inspection or repair of the real estate;

(H) Contracting for repair or remodeling of the real estate;

(I) Holding trust funds or property received in managing the real estate and accounting to the owner for the funds or property;

(J) Advising the owner regarding renting or leasing the real estate;

(K) Providing staff and services to accommodate the tax reporting and other financial or accounting needs of the real estate;

(L) Providing copies of records of acts performed on behalf of the owner of the real estate; and

(M) Offering or attempting to do any of the acts described in this paragraph for the owner of the real estate; or

(b) Representing a tenant or prospective tenant when renting or leasing real estate and includes but is not limited to:

(A) Consulting with tenants or prospective tenants about renting or leasing real estate;

(B) Assisting prospective tenants in renting or leasing real estate;

(C) Assisting prospective tenants in qualifying for renting or leasing real estate;

(D) Accepting deposits or other funds from prospective tenants for renting or leasing real estate and holding the funds in trust for the prospective tenants;

(E) Representing tenants or prospective tenants renting or leasing real estate; and

(F) Offering or attempting to do any of the acts described in this paragraph for a tenant or prospective tenant.

None of the activities of an HOA community manager involve “representing the owner of real estate in the rental or lease of the real estate.” Therefore, an HOA community manager is not required to have a property manager license or any other license the agency issues.

In addition, HOA community managers are not required to be licensed by any other state government entity in Oregon.



AGENCY EMPLOYEES TO PARTICIPATE IN FOOD DRIVE

The Real Estate Agency's staff will take part in the annual Governor's State Employees Food Drive beginning February 1, 2007. The goal of the food drive is to collect money and non-perishable food donations benefiting the Oregon Food Bank.

The Oregon Food Bank provides the following information about hunger in Oregon:

- One in five people in Oregon received an emergency food box at least once last year.
- Food donated during food drives is some of the most nutritious food that the Oregon Food Bank receives.
- Families with children face the greatest need. Thirty-eight percent of those who ate from an emergency food box last year were children.
- Most adult emergency food box recipients are working, retired or disabled. Forty-three percent of recipient households had at least one working adult.
- Oregon Food Bank is effective and efficient. Only 3.7 percent of the

general fund goes to administration, including fund-raising.

Oregon Food Bank is a nonprofit, charitable organization. It is the hub of a statewide network of more than 894 hunger-relief agencies serving Oregon and Clark County, Washington. Oregon Food Bank's mission is to eliminate hunger and its root causes ... because no one should be hungry.

If you would like to help, please drop off your non-perishable food donations to Agency's office. Monetary donations are also important. A donation of \$1 to the Oregon Food Bank can buy six pounds of food for a needy family. Checks payable to the Oregon Food Bank can be delivered to the Agency's office.

The most needed items are:

- canned meats (i.e., tuna, chicken and salmon)
- canned and boxed meals (i.e., soup, chili, stew, macaroni and cheese)
- peanut butter
- canned or dried beans and peas

(i.e., black, pinto and lentils)

- pasta, rice and cereal
- canned fruits
- 100 percent fruit juice (canned, plastic or boxed)

Items that cannot be accepted:

- Glass containers
- Rusty cans
- Homemade items
- Perishable items
- Alcoholic beverages and soda

The Oregon Real Estate Agency is located at 1177 Center Street NE in Salem.



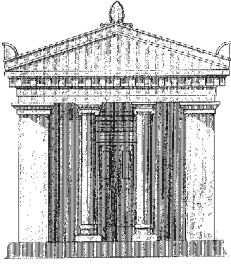
AGENCY JOB ANNOUNCEMENTS NOW ON WEBSITE

Employment opportunities with the Oregon Real Estate Agency can now be viewed from the Agency's website. Available job openings are posted to the State of Oregon jobs page and viewable from *www.rea.state.or.us*.

The Agency will be looking to fill positions in the near future. All qualified individuals are encouraged to apply.

ADMINISTRATIVE ACTIONS

August 1, 2006 through October 31, 2006



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

Hublou, Greg (Portland) Broker #780302080

Default order dated August 7, 2006, effective August 18, 2006. U.S. Bankruptcy Court Trustee complained that Hublou received \$10,000 in earnest money, did not hold the funds in trust, and commingled the funds with his own personal funds. On July 31, 2002, Hublou entered into a land sales contract to purchase property in Tillamook, Oregon from Seller S. On June 2, 2003, Hublou assigned his interest in the contract to Buyer P to get the property out of his name in order to avoid disclosing the asset to the Bankruptcy Court. On November 9, 2003, Hublou, as Lessor, signed a rental agreement with Tenant M for the Tillamook property. The rental agreement states that Hublou is the owner,

when he was not. Hublou received rents and a security deposit, which were deposited into his personal bank account. Buyer P (now owner) did not receive any of those funds. Hublou did not conduct the property management according to rules, i.e. no property management agreement, no client trust account, no owner or tenant ledgers, and no record of receipts and disbursements.

In September 2003, Friend F loaned Hublou \$10,000. On February 6, 2004, Hublou paid Friend F the \$10,000 and indicated it was for deposit refund on the Tillamook property. Hublou filed bankruptcy on March 4, 2004, but failed to disclose the payment to Friend F. On May 20, 2004, in a deposition, Hublou explained to the Bankruptcy Court that the \$10,000 he received from Friend F was an earnest money deposit for the Tillamook property, when it was not. Hublou was asked to provide an earnest money agreement, but did not have one with him. Hublou later provided an earnest money agreement dated September 15, 2003. Hublou advised the Agency that he created the earnest money agreement to provide to the bankruptcy trustee.

During the deposition, Hublou was asked about his payments to Seller S. Hublou stated that Seller S was his assistant working part time, that she had a disability and could only receive \$745 a month, which was the amount of the land sale contract payment. Hublou was actually making monthly payments on the land sales contract to purchase the Tillamook property.

In September 2004, Hublou advertised the Tillamook property, but did not disclose his licensed status. Hublou did not maintain separate transaction files for each of his transactions regarding the

Tillamook property.

Violations: ORS 696.241(1), 696.301(1)(10)(31), 696.805(2)(a), 696.810(2)(a), 696.815(2)(a)(b); OAR 863-015-0125(2), 015-0250(3), 025-0020, 025-0025, 025-0030, 025-0035, 025-0040, 025-0050, 025-0055, 025-0065 (2003 Edition)

SUSPENSIONS

Dawell, Charles C. (Lake Oswego) #780402491

Hearing order dated October 23, 2006 issuing a 60-day suspension effective November 10, 2006. The Agency received a complaint from the Appraisal Certification & Licensure Board (ACLB) stating that Dawell had issued a letter of opinion that did not meet statutory requirements. Dawell was licensed by the ACLB as an appraiser until March 31, 2003. On February 26, 2004, Dawell provided a Letter of Opinion to another real estate agent concerning property on SW Boones Ferry Road in Lake Oswego. On several pages of the report, the caption on the frame surrounding the information on the page read: "C.C. Dawell C.R.A. Professional Appraiser". Dawell also referred to himself as an appraiser in the body of the report. Dawell also included the following disclaimer: "Data relied on but not found in this report can be found in the appraiser's office files." A flyer for the subject property indicated that Dawell had performed a fee appraisal in February 2004. In December 2003, Dawell entered into a stipulated order with the Agency in which the parties agreed that Dawell had used an incomplete disclaimer and had charged a fee for property in which he was not pursuing a listing. At the time of hearing, Dawell had appraiser listings or advertisements in the Lake Oswego Chamber of Commerce

website, the Verizon Superpages.com, the Canby MagicYellow Pages, and Yellowpages.com. Dawell had not contacted any of these advertisers to advise them of his license revocation or to withdraw the ads since his appraiser's license was revoked in 2003.

Violations: ORS 696.301(1) and OAR 863-015-0190(3)(g)(h) (2003 Editions)

Rodgers, Dar (Portland) Broker #200204457

Stipulated order dated October 30, 2006 resulting in a 30-day suspension, effective December 4, 2006, followed by a limited license for 2 years. The Agency received information that Rodgers had been convicted of Theft 1, a felony. The Agency requested information from Rodgers regarding the conviction. Rodgers provided documents and an explanation for the conviction along with a letter of recommendation from her principal broker. Agency records show that on March 12, 2003, Rodgers completed a Background Check Application form and disclosed only one DUII (Driving Under the Influence of Intoxicants) conviction from August 3, 2001. A check through the Law Enforcement Data Systems and Oregon Judicial Information Network disclosed additional items that Rodgers had not disclosed.

Violations: ORS 696.301(25), OAR 863-015-0175 (2003 Edition)

REPRIMANDS

Dickinson, Jessica R. (Bend) Broker #850400248

Stipulated order dated October 12, 2006. Dickinson is the principal broker for Bend Real Estate, Inc. Bend Real Estate, Inc. was randomly chosen for a clients' trust account audit. The documentation Dickinson submitted indicated no reconciliation had been completed for the requested month. Dickinson did not provide the bank state-

ment, check register or ledgers as requested. The Agency conducted a compliance review and discovered the following areas of non-compliance: written approval to establish and collect interest on a clients' trust account was not obtained; three-way reconciliations for the clients' trust account were not being completed; and a complete accounting and record of funds was not being maintained. An overage in Dickinson's clients' trust account was discovered during the reconciliation process. Dickinson has identified and corrected the discrepancies. Dickinson has closed the interest-bearing account and opened a new non-interest-bearing clients' trust account.

Violations: OAR 863-015-0288(8), 863-015-0265(1), 863-015-0275 (2003 Edition)

Fox, Yvonne (Medford) Broker #780501706

Stipulated order dated August 14, 2006. A principal broker in the Medford-area complained to the Agency that Fox had sold a property that was still under an active listing with complainant's company. Seller listed his property with complainant's company through Licensee W on July 16, 2004, to expire on June 30, 2005. In November 2004, Seller verbally asked Licensee W to cancel the listing. Licensee W changed the listing status in SOMLS (Southern Oregon Multiple Listing Service) from "active" to "withdrawn" as Licensee W understood Seller wanted to suspend the listing rather than cancel it. Seller then contacted Fox about listing his property. Seller told Fox that the listing with Licensee W had been cancelled. Fox did not contact Licensee W to verify the listing was cancelled. Fox did check SOMLS to see if the subject property showed as an active listing, and found that it did not. Fox did not check the SOMLS to see if the listing had been cancelled or withdrawn. On January 14, 2005,

Seller signed a listing with Fox. Seller received and accepted an offer and the transaction closed on February 7, 2005 and commissions were paid to Fox and the selling broker. At the time of closing, Licensee W still had an active listing, but was not paid a commission.

Violation: ORS 696.805(3)(a)

Livingston, Ellen F. (Medford) Broker #910700185

Stipulated order dated August 28, 2006. In addition to the reprimand, Livingston is required to successfully complete the Agency portion of the real estate pre-license educational course of study, and the 15-hour new agent course offered internally by John L. Scott. Livingston's principal broker has agreed to a high level of supervision of Livingston. Buyer G represented the homeowners from a homeowners' association and complained that Livingston misrepresented the availability of water for the subdivision. Livingston had lived in the subject subdivision and was the daughter of the owner and developer. The CC&Rs (covenants, conditions and restrictions) for the subdivision stated in one section that a buyer was to complete landscaping within 6 months and that the landscapes were to be well kept. Another section of the CC&Rs stated that a certified water system had been constructed in the subdivision to provide domestic water supply and fire protection to all lots. In 2000, it became evident that when more houses were built, there would be a water availability problem. A letter to homeowners was sent suggesting the homeowners install stop valves or use an alternate odd/even house number watering plan. Buyer G purchased a home in the subdivision in September 2002. Livingston represented Buyer G. Livingston did not disclose to Buyer G the water system issues or that it was to be used for domestic use only, not irrigation.

ADMINISTRATIVE ACTIONS: *continued on page 8*

ADMINISTRATIVE ACTIONS: *continued from page 7* Livingston also represented sellers of properties in the subdivision between June 2000 through July 2003 and did not advise her sellers to disclose, and Livingston did not disclose, the water supply and system issues to potential buyers. In July 2003, Livingston was aware that the water system had run out of water periodically and was not adequate to supply the homes with even domestic use only. Livingston did not recognize the severity of the water issues and did not advise the sellers she represented to disclose the water supply and system issues to potential buyers or their agents.

Violations: ORS 696.805(2)(c) and ORS 696.815(2)(a) (1999 & 2001 Editions)

Marr, Diane K. (Redmond) Property Manager #200005114

Stipulated order dated October 30, 2006. Owner V complained that Marr was negligent, made misrepresentations, failed to exercise proper supervision over her employees, breached her fiduciary duties, and failed to exercise reasonable care and diligence. Owner V claimed that as a result of Marr's actions, Owner V incurred a loss of \$1,884.08. On September 25, 2003, Owner V signed a property management agreement for Marr to manage a property in Redmond, Oregon. Owner V signed addendums adding more properties. Marr managed 6 properties for Owner V until March 31, 2005. In September 2004, Tenant B signed a lease for one of Owner V's properties. Tenant B was not able to pay the full move-in amount and signed a payment agreement. Marr did not obtain authority from Owner V to accept payments from Tenant B. Tenant B was not able to completely pay the required deposits and rent. Owner V instructed Marr to evict Tenant B. Marr did not evict Tenant B when instructed by Owner V. It was also

noted that Marr did not reconcile all her client trust accounts monthly and did not sign and date the reconciliations.

Violations: OAR 863-025-0015(1), 863-025-0025(5)(6) (2003 Editions)

Nasset, Jim (Keizer) Broker #850300224

Stipulated order dated October 18, 2006. Buyers complained that they did not receive a property disclosure from Nasset and that Nasset discouraged them from getting a home inspection. In May 2004, Sellers listed property for sale with Nasset's brokerage through another broker. Sellers completed a property disclosure at the time of listing. In June 2004, Buyers purchased the subject property. Nasset did not provide Buyers with a copy of the seller's property disclosure or inform the Buyers of their rights under ORS 696.870. After the transaction closed, the Buyers encountered problems with the LP siding and paid \$15,000 to have it replaced. The seller's property disclosure stated that the siding on the property was Hardi Plank with a 50 year warranty.

Violation ORS 696.810(2)(b)

Phibbs, Donna L. (Eugene) Broker #930500056

Stipulated order dated September 6, 2006. Seller, a bankruptcy trustee, complained that as the buyer's agent, Phibbs compromised the seller's position by allowing the buyer to move into the subject property prior to closing without the seller's knowledge or permission. Buyer's offer was countered by seller and accepted by buyer on July 12, 2005, which included extending the closing date to August 17, 2005. The preliminary title report, issued July 21, 2005, showed three IRS liens recorded on the subject property. Before the transaction could close, the liens had to be cleared. Two of

the IRS liens were removed. The third lien was not removed which prevented the sale from closing timely. All parties understood that the IRS payoff notice was expected at any time and once it was received, the transaction could close. On or about August 17, 2005, buyer signed closing papers. Buyer had given a 30-day vacate notice and needed a place to live by the end of August. Buyer asked Phibbs if he could move into the subject property before closing. Phibbs contacted the seller's broker who indicated that he didn't think it would be a problem for buyer to move in early. Phibbs advised buyer that he could move into the property before closing. Phibbs did not prepare an early occupancy agreement and Phibbs did not advise her principal broker that buyer was moving into the subject property before closing.

Violations: OAR 863-015-0135(5) and ORS 696.810(3)(c)

CIVIL PENALTIES

Abstract & Title Company, The (LaGrande) Escrow Agent #850600196

Stipulated order dated September 11, 2006 issuing a \$3,000 civil penalty. Escrow agents are required to submit certain information no later than 120 days after the end of the agent's tax or accounting year. Abstract & Title submitted its information 60 days late. This is the third time a civil penalty was levied for a late filing.

Violation: OAR 863-050-0150(2)

Brenden, Carl L. (Portland) Broker #911000078

Stipulated order dated October 12, 2006 issuing a \$2,600 civil penalty. Brenden failed to renew his real estate license for 197 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

Castle, Ashton Bruce (Eugene) Broker #200401144

Stipulated order dated August 18, 2006 issuing a \$2,100 civil penalty. Castle failed to renew his real estate license for 168 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2).

Christy, Alex G. (Beaverton) Broker #200204252

Stipulated order dated September 28, 2006 issuing a \$600 civil penalty. Christy failed to renew his real estate license for 60 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

Colovos, George C. (Prineville) Broker #990100079

Default order dated August 25, 2006 issuing a \$600 civil penalty. Colovos failed to renew his real estate license for 68 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

Decoto, Ty L. (Portland) Broker #199909020

Default order dated August 29, 2006 issuing a \$600 civil penalty. Decoto failed to renew his real estate license for 80 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

Ditlefsen, Robert L. (Springfield) Broker #850600119

Default order dated August 25, 2006 issuing a \$100 civil penalty. Ditlefsen failed to renew his real estate license for 44 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

Farrow, Mark E. (Salem) Broker #960600078

Stipulated order dated August 2, 2006 issuing a \$600 civil penalty. Farrow failed to renew his real estate license for 78 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

First American Title Company of Malheur County (Ontario) Escrow agent #900600067

Stipulated order dated August 2, 2006 issuing a \$1,500 civil penalty. Escrow agents are required to submit certain information no later than 120 days after the end of the agent's tax or accounting year. First American-Malheur submitted its information 9 days late.

Violation: OAR 863-050-0150(2)

Giddings, Brenda J. (Lake Oswego) Broker #901000103

Stipulated order dated October 30, 2006 issuing a \$100 civil penalty. Giddings failed to renew her real estate license for 59 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

Goldbelt Raven LLC (Portland) Escrow Agent #200403300

Stipulated order dated August 3, 2006 issuing a \$750 civil penalty. Escrow agents are required to submit certain information no later than 120 days after the end of the agent's tax or accounting year. Goldbelt Raven submitted its information 17 days late.

Violation: OAR 863-050-0150(2)

Hoover, Deana & McDowell, Jeffrey (Portland) Unlicensed

Stipulated order dated September 11, 2006 issuing a \$6,600 civil penalty. A complaint was received from a licensed property manager

alleging that Hoover and McDowell were conducting property management without a license. Hoover and McDowell admitted to conducting property management between May 2005 and June 2006, 13 months, without benefit of a license. They have ceased their activity and are in the process of becoming licensed.

Violation: ORS 696.020(1)

Koch, Devin M. (Portland) Broker #200204307

Stipulated order dated August 2, 2006 issuing a \$100 civil penalty. Koch failed to renew his real estate license for 40 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

Krause, David A. (Portland) Broker #200211083

Stipulated order dated September 13, 2006 issuing a \$600 civil penalty. Krause failed to renew his real estate license for 84 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

LSI Title Company of Oregon LLC (Portland) Escrow Agent #200410334

Stipulated order dated September 28, 2006 issuing a \$1,000 civil penalty. Escrow agents are required to submit certain information no later than 120 days after the end of the agent's tax or accounting year. LSI Title submitted its information 17 days late.

Livermore, Linda Laush (Portland) Broker #860400133

Stipulated order dated September 28, 2006 issuing a \$100 civil penalty. Livermore failed to renew her real estate license for 46 days while continuing to conduct professional real estate activity.

ADMINISTRATIVE ACTIONS: continued on page 10

ADMINISTRATIVE ACTIONS: *continued from page 9*

Violation: OAR 863-015-0050(2)

Llewellyn, Marleah C. (Portland) Broker #780403114

Stipulated order dated October 12, 2006 issuing a \$2,100 civil penalty. Llewellyn failed to renew her real estate license for 169 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

Martin, Samuel Jr. (Medford) Broker #200107119

Stipulated order dated October 12, 2006 issuing a \$2,600 civil penalty. Martin failed to renew his real estate license for 254 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

McCoy, Donald E., III (Medford) Broker #200204074

Stipulated order dated September 28, 2006 issuing a \$100 civil penalty. McCoy failed to renew his real estate license for 45 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

McVay, Mathew Kent (Klamath Falls) Broker #200404125

Stipulated order dated August 2, 2006 issuing a \$100 civil penalty. McVay failed to renew his real estate license for 44 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

Owens, A. Eric (Beaverton) Broker #200204527

Stipulated order dated October 30, 2006 issuing a \$2,600 civil penalty. Owens failed to renew his/her real estate license for 204 days while continuing to conduct pro-

fessional real estate activity.

Violation: OAR 863-015-0050(2)

Perez, Ernest Raoul (Salem) Broker #200504370

Stipulated order dated September 5, 2006 issuing a \$600 civil penalty. Perez failed to renew his real estate license for 65 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

Ravencraft, Cagney (Portland) Broker #200111167

Stipulated order dated October 23, 2006 issuing a \$4,100 civil penalty. Ravencraft failed to renew her real estate license for 288 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

Seymour, Richard A. (Gresham) Broker #941100199

Stipulated order dated August 14, 2006 issuing a \$1,600 civil penalty. Seymour failed to renew his real estate license for 126 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2).

Stewart Title of Oregon, Inc. (Portland) Escrow Agent #991100004

Stipulated order dated September 18, 2006 issuing a \$3,000 civil penalty. Escrow agents are required to submit certain information no later than 120 days after the end of the agent's tax or accounting year. Stewart Title submitted its information 38 days late.

Violation: OAR 863-050-0150(2)

Stuart, Tim D. (Canby) Broker #990200191

Stipulated order dated October 11, 2006 issuing a \$100 civil penalty. Stuart failed to renew his real

estate license for 53 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

Western Regional Foreclosure Services LLC (Portland) Escrow Agent #200405323

Stipulated order dated August 2, 2006 issuing a \$1,000 civil penalty. Western Regional disclosed a physical address in Portland as its office location on its license application in December 2003 and again on its renewal application in June 2004. On May 2, 2005, Western Regional reported that all purchase money it had received in its capacity as an escrow agent was from foreclosure sales and that all the money was deposited into a trust account in Nevada held by Nevada Trust Deed Services, Inc. On May 11, 2005, an audit was attempted and found Western Regional was not located at its address of record. Business and financial records were not available for review.

Violations: ORS 696.511(2)(a), 696.534, 696.578(1), 696.535(1)(f) (2003 Edition)

White, Laura Vivien (Oregon City) Broker #200402195

Stipulated order dated August 14, 2006 issuing a \$600 civil penalty. White failed to renew her real estate license for 65 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2).

Williams, Christopher S. (Portland) Broker #200205074

Stipulated order dated August 2, 2006 issuing a \$100 civil penalty. Williams failed to renew his real estate license for 36 days while continuing to conduct professional real estate activity.

Violation: OAR 863-015-0050(2)

OTHER

Yehia, Elliot (Portland) Broker #200209031

Final Order dated June 26, 2006 summarizing oral stipulations made by the parties for the surrender of Yehia's real estate license effective April 1, 2006, and agreeing to not make application for any license issued by the Real Estate Agency for a period of 5 years.

A complaint was received in February 2004 from the ultimate buyers of property located on N. Willis Blvd in Portland, Oregon, alleging that Yehia misrepresented the property, engaged in misconduct in the property management of the property and committed fraud and forgery. The N. Willis Blvd property was owned by Seller C. In June 2003, Yehia wrote an offer for the purchase of the N. Willis Blvd property for Buyer E, an LLC. Yehia represented Buyer E and was listed as a member of the LLC. Yehia signed the agreement on behalf of Buyer E. Yehia listed the property in RMLS on July 5, 2003. Yehia had a home inspection completed. A preliminary title report issued which included as exceptions (a) a Notice of Default and Election to Sell with a sale date of August 15, 2003, and (b) a judgment against Seller C forbidding transfer of the property without satisfaction. Seller

C executed a Bargain & Sale deed to Yehia for the property, which was not recorded. Yehia continued marketing the property. On September 17, 2003, Buyer S signed a sale agreement identifying Buyer E (the LLC) as the seller. Yehia was identified as the agent for both seller and buyer. Yehia offered to sell Buyer S the inspection report he had previously had done instead of recommending Buyer S obtain their own. A new preliminary title report was issued showing Seller C in title to the property with an exception noting right, title and interest of the LLC, which had been recorded. After Buyer S signed the sale agreement, Yehia removed Buyer E's name and replaced it with Seller C. Yehia did not disclose this change to Buyer E and did not obtain their acknowledgement. Escrow closed showing seller as Seller C and buyer as Buyer S. Yehia received a commission on the sale. Buyer S then learned that the seller was not the LLC but actually Seller C and that Seller C was in foreclosure. After Buyer S purchased the property, the lender sold it to another buyer at auction. The title company settled with the third party purchaser and Buyer S now owns the property.

The Agency received a complaint

from Buyer Z that Yehia made numerous misrepresentations regarding the physical condition of the subject property. In September 2003, Yehia listed property on N. Portsmouth Ave in Portland, Oregon. The property was a 4-unit rental property and owned by Seaboard. Yehia was the sole owner of Seaboard LLC. Yehia did not disclose his ownership interest on the listing. In November, Buyer Z tendered an offer to purchase the N. Portsmouth property, and the parties subsequently came to agreement. Yehia did not disclose his license status anywhere in the transaction documents. Yehia made certain assurances to Buyer Z as to the condition of the property. Based on those assurances, Buyer Z expended funds and obtained inspections. After receiving the inspections, Buyer Z terminated the transaction.

Yehia's license expired on September 30, 2004 and was not renewed until October 18, 2004, during which time he conducted professional real estate activity as if actively licensed.

Violations: OAR 863-015-0145(1), ORS 696.810(3)(a), ORS 696.810(2)(a), ORS 696.301(15), OAR 863-015-0050(2) and ORS 696.301(28) (2003 Edition)



OREGON REAL ESTATE NEWS-JOURNAL, SALEM, OREGON 97301
Periodicals Postage Paid at Salem, Oregon