

Oregon Real Estate News-Journal

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Commissioner Gene Bentley

Transitions in the Agency

Gene Bentley, Real Estate Commissioner

I'm pleased to report about the exciting changes taking place here at the Oregon Real Estate Agency.

In May, Mesheal Heyman accepted the opportunity to manage the new Education Division. Mesheal has been with the Agency since January 2001.

The previous Education Section was responsible for coordinating license examinations, approving pre-license and post-license courses and instructors, developing and publishing Agency publications and brochures, and managing the Agency's website. The new division will continue those duties, but will take on the additional responsibilities of conducting compliance reviews and mail-in audits, researching the educational needs of real estate licensees, and encouraging additional educational opportunities for licensees.

Agency staff members Gae Lynne Cooper, Judi Parker, and Danette Rozell have joined Mesheal in the new division. The first task faced by the new team will be to research cost-effective ways to get the same information given in one-on-one compliance reviews to more licensees.

In June, Selina Barnes was promoted

to Regulation Division Manager. She was previously the manager of the Licensing Division.

Selina has been with the Agency for over five years, and has worked previously as an Investigator/Auditor for the Agency. Prior to joining the Agency, Selina served over eight years with the Salem Police Department, including four years as a detective conducting complex, multi-jurisdictional investigations.

The new Licensing Division Manager will be hired by the time you receive this issue. Licensing Compliance Specialist Laurie Hall has agreed to manage the division until then. Watch for the announcement on the Agency's website at www.rea.state.or.us.

Investigator/Auditor Virginia Grosso has announced that she will be leaving the Agency in August to finish her last year at Willamette University's College of Law. We wish her well in her endeavors.

At the time of printing, the Agency plans to have hired three new Investigator/Auditors for the Regulation Division. This will bring the division up to full staff.

Available job opportunities with the Agency can be found on our website at www.rea.state.or.us. ■



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Oregon - 150 Years of History

If someone asked you what your idea of an Oregonian is, what would you tell them?

Oregon celebrates its 150th birthday next year, and we want to hear your take on being an Oregonian!

The Real Estate Agency would love any real estate-related stories you want to share. Whether stories of the land your family has held since the pioneering days or your experiences as a real estate broker or property manager, we want to hear from you. What changes have you seen in the industry while you've been licensed? Please e-mail your stories with contact information to us at orea.info@state.or.us.

You can also share your stories at

<http://www.oregon150.org/oregon-stories>.

Oregon 150 is the non-profit group organizing many sesquicentennial events. They are asking you to share anything from written family histories, audio files, photographs, poems, and even cherished family recipes. Their webpage has some excellent tips to get your story started.

Starting in the December 2008 edition of *Oregon Real Estate News-Journal*, we explore the history of land and real estate in Oregon. We will have stories in four editions, each involving a different time period from Lewis and Clark's arrival through today. The stories highlight some of the interesting events that shaped our state and the real estate industry. ■

Renewing Online? A Green Bar Means Go.

Real estate licensees renewing their license online using Internet Explorer 7.0 may see something different: their internet browser bar turning green.

Why did the address bar turn green?

You are visiting a site secured with Extended Validation (EV) SSL, the highest standard for Web site authentication. EV SSL signifies that our organization has passed a rigorous identity authentication process. In high-security browsers, an EV SSL Certificate triggers the browser address bar to turn green, display https://, and show the name of the organization that owns this Web site and VeriSign, the certificate authority that verified the owner's identity using a rigorous authentication process. When your address bar turns green, be sure to look to see that the owner of this Web site is the organization you intended to visit.

What does SSL mean?

Secure Sockets Layer (SSL) Certificates are the standard method used on the Internet to secure communications between Web users and Web sites. This technology both authenticates the identity of a Web site and encrypts communications between the user and the Web site.

What is Extended Validation SSL?

Extended Validation (EV) SSL Certificates represent the highest standard for authentication approved by the CA/Browser Forum, a group of leading SSL Certificate Authorities (CAs) and browser vendors. The standard requires that every Web site secured with EV SSL pass a certified process for rigorously verifying the identity of the organization responsible for that Web site.

Why does rigorous authentication matter?

When you follow a link to a Web site, how do you know it is real? There are criminals who create Web sites that look familiar in order to trick visitors into revealing personal and financial information. These "phishing" web sites can be very difficult to distinguish from legitimate Web sites. An Extended Validation SSL Certificate displays the authenticated name of the organization that purchased the SSL Certificate.

Why did you choose Extended Validation for this Web site?

We chose Extended Validation (EV) SSL to secure your online transaction with us because we take your online security very seriously. EV SSL signifies that our organization has passed the strict EV identity authentication process. ■

Enhancing Education

Marianne Wood, Oregon Real Estate Board

The Real Estate Agency and the Oregon Association of Realtors® are working together to improve the education standards for Oregon licensees.

A Joint Education Task Force was formed to address issues related to pre- and post-license education for real estate brokers and property managers.

From this group, subcommittees were appointed to study and prepare recommendations to be presented to the Oregon Real Estate Board. The subcommittees met and discussed pre-license education, advanced practices, continuing education, property management and distance learning.

The Joint Task Force recommendations were also presented at the Oregon Association of Realtors® 2008 Legislative Conference in Salem. To view the recommendations, go to <http://www.oregonrealtors.org/Advocacy/> and click on the link to the Legislative Conference white papers. The list is on that page.

Some of the bullet points of the recommendations and discussions coming from the task force include the following comments:

Pre-license education

In comparing pre-license education in Oregon with other states, it is interesting to note that Oregon currently ranks as one of only six other states that require more than 100 hours of pre-license education. Colorado (168 hours) was the only state to require more than the 150 hours currently required for pre-license education in Oregon.

Another recommendation from the task force was to develop a test that would include

both multiple choice and critical decision-making questions. Some states use a combination of multiple choice questions and a broker simulation examination. The task force researched many of the available options for testing.

Comments leading to the appointment of the original Education Work Group in 2006 indicated that the teaching materials for pre-license courses were focused more on passing the examination than preparing the licensee for the actual responsibilities of being a licensed Real Estate Broker working with the public.

Continuing Education

The work group recommended that all the elective courses be eliminated and the current required course topics expanded. The revised course topics suggested cover 28 categories and include one three-hour rule and law update certified annually by the Real Estate Board. The course materials and course providers will be certified.

From the combined efforts of the Real Estate Agency and Oregon Association of Realtors®, it is clear that Oregon is raising the real estate education standards for current and future licensees.

All licensees are encouraged to contribute ideas and comments to any member of the Joint Task Force or send suggestions to the Real Estate Board, 1177 Center Street N.E., Salem, Oregon 97301. You can also e-mail to orea.board@state.or.us.



Marianne Wood

Board Meeting Schedule

August 4, Boardman
October 6, Salem
December 1, Salem

Visit www.rea.state.or.us for more information.

Governor Re-Appoints Medford, Hermanski to Board

Governor Ted Kulongoski has re-appointed Kim Medford and Christopher Hermanski to the Oregon Real Estate Board.

Medford is an attorney with Karnopp Petersen, LLP in Bend. She serves as one of

two public members of the Board. Her term expires January 31, 2012.

Hermanski is founder of Mainlander Property Management in Lake Oswego. His term expires July 31, 2012.

Administrative Actions

February 27, 2008 through June 30, 2008, 2008

Revocations

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 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.

McKenna, D. Michael (Portland) Broker #890500223
Stipulated order dated June 30, 2008, effective June 30, 2008, resulting in a revocation.
Violation: ORS 696.301

Sasaki, S. Alan (Portland) Broker #780401503
Stipulated order dated March 27, 2008, effective March 27, 2008. Sasaki plead guilty to a charge of Aggravated Theft in the First Degree, a Class B Felony.
Violation: ORS 696.301(11)

Steiner, Judy K. (McMinnville) Property Manager #940600190
Stipulated order dated May 1, 2008, effective June 1, 2008, resulting in a revocation.
Violation: ORS 696.301

Truong, April (Portland) Broker #990700101
Default Order dated April 1, 2008, effective April 1, 2008. Truong failed to submit transaction documents to her principal broker until after the transaction closed; Truong allowed the buyer to enter into a seller-carried contract and a contract of sale and failed to provide documentation that the lender was aware of the seller carried contract of sale; Truong entered into a verbal agreement to purchase buyer's properties in Hillsboro and Portland without preparing paperwork, by improperly obtaining quitclaim deeds on these properties and failing to return the quitclaim deeds or reconvey the properties; Truong failed to provide her principal broker with transaction documents when she obtained quitclaim deeds on two of buyer's properties and failed to maintain documentation that she made mortgage payments on behalf of Buyer for the two properties; and Truong placed a property back in the RMLS system from June to September 2006 after

the listing had been cancelled in April 2006 and without the permission or consent of the owner.

Violations: ORS 696.810(2)(a); OAR 863-015-0255(2) (2003 Edition); ORS 696.280, 696.301(14); OAR 863-015-0125(5)(e); 863-015-0145(5) (2005 Edition)

Yehia, Elliot (Beaverton) Broker #200209031
Hearing order dated March 10, 2008, effective April 1, 2008. Yehia failed to disclose in the RMLS listing statement that he was a real estate licensee and had an ownership interest in the property; Yehia failed to exercise reasonable care and diligence by recommending that buyers rely on his (Yehia) inspection report and his (Yehia) inspector rather than advising buyers to obtain an independent inspection report; Yehia altered transaction documents by modifying the documents after execution without the consent of the buyers; Yehia acted in the dual capacity of agent and undisclosed principal in more than one transaction; Yehia failed to disclose his financial interest in a property to the buyers; Yehia conducted professional real estate activity after his license expired and prior to its renewal; and Yehia falsely advised OREA that he had not conducted any professional real estate activity during the period in which his license was expired and not renewed.

Violations: ORS 696.301(1), (15), (28) & (31), 696.805(2)(a) & (c), 696.810(2)(a), 696.810(3)(a), (c) & (d); OAR 863-015-0050(2), 863-015-0145 (2003 Edition)

Suspensions

Daugherty, Sheila Lynne (Lincoln City) Broker #200602296
Stipulated order dated March 10, 2008, issuing a 30-day suspension effective April 1, 2008. Daugherty failed to inform sellers, whom she represented through her course

of conduct, of the sellers' duty under ORS 105.462 to 105.490, regarding the sellers' property disclosure; Daugherty failed to inform the buyer, whom she represented through her course of conduct, of the buyer's rights under ORS 105.462 to 105.490, pertaining to the seller's property disclosure; Daugherty failed to provide the sellers with an initial agency disclosure pamphlet at the first contact; Daugherty failed to obtain the signature of the buyer or sellers on a final agency acknowledgement form when executing the offer to purchase; Daugherty failed to obtain signed disclosed limited agency agreements from the sellers and buyer, when, through her course of conduct, she represented both sellers and buyer; Daugherty failed in a timely manner to account to the sellers for the \$65 she received from the sellers for the purpose of recording the deed; Daugherty failed to transmit to her principal broker the \$65 she received from the sellers for the purpose of recording the deed; Daugherty failed to transmit to her principal broker the real estate contract that she executed on behalf of the sellers and buyer; and Daugherty failed to disclose to the sellers in a timely manner a conflict of interest, that the buyer was her son.

Violations: ORS 696.815(2)(a), 696.820(2), 696.845, 696.870(1)(a) & (b), OAR 863-015-0205(1), 863-015-0255(2)

Kern, Don R. (Roseburg) Broker
#921200044

Stipulated order dated June 16, 2008, issuing a 60-day suspension effective June 30, 2008. Kern advertised property for sale that did not include his registered business name; Kern failed to review and be responsible for all advertising concerning professional real estate or property management activity; Kern failed to deposit property management funds into a clients' trust account; Kern failed to establish and maintain a clients' trust account for property management; Kern failed to establish and maintain owner ledgers for each property management agreement; Kern failed to include in a property management agreement: (1) an identifying code, (2) disposition of records upon termination, (3) all management fees and other compensation to be paid, (4) a disclosure regarding the use

of employees or businesses in which he has a pecuniary interest, and (5) a statement that the broker shall disclose use of employees or businesses where the broker has a pecuniary interest; Kern's property management agreement described quarterly owner statements instead of monthly; Kern failed to include an identifying code on the property management addendum; and Kern failed to maintain written company policies for real estate and property management.

Violations: OAR 863-015-0125(1), (2) & (3), 863-025-0015(1), 863-025-0020(1), (2) (f)-(k) & (4), 863-025-0055(1), 863-025-0065(1)

Martin, Troy W. (Portland) Broker
#891200213

Stipulated order dated June 30, 2008, issuing a 45-day suspension effective July 1, 2008. Martin signed the closing statements in two transactions when he knew that funds would go to the buyer.

Violation: ORS 696.301(1)

Mitzel, Debra K. (Molalla) Property Manager
#980700051

Stipulated order dated March 10, 2008, issuing a 2-year suspension effective April 1, 2008.

Mitzel allowed an employee to issue a second check to a vendor without recording the invoice number; Mitzel failed to authorize, in writing, an employee to review and approve the reconciliations of the clients' trust account; Mitzel misrepresented the nature of a payment to a property owner; Mitzel took a management commission before the end of the rent cycle; Mitzel failed to notify the Agency of a new clients' trust account; Mitzel failed to maintain active and inactive records as required; Mitzel failed to reconcile the clients' trust account February through April 2006 at least once a month; Mitzel issued checks from an owner's ledger account in excess of the actual credit balance of the account; Mitzel failed to deposit into a clients' trust account funds received in the course of her property management business; Mitzel allowed outstanding adjustments to remain on the accounting records for extended periods of time; Mitzel conducted

Please see **Administrative Actions** on Page 6

Administrative Actions:

The complete order for each administrative action can be found as a supplement to the electronic version of the *OREN-J* on the Agency's website. Visit www.rea.state.or.us, and select "News-Journal" from the menu.

Continued from Page 5

property management for an owner without a valid property management agreement; Mitzel allowed an employee to enter into a property management agreement; Mitzel failed to initial and date a property management agreement memorializing her approval and acceptance; Mitzel failed to assure that the label included the language "clients' trust account" on more than one clients' trust accounts; Mitzel failed to provide an owner with a final accounting and the unobligated funds timely; Mitzel allowed an employee to make a telephone transfer without prior written authorization; Mitzel issued a clients' trust account check prior to the existence of a sufficient credit balance in the owner's ledger to cover the check on more than one occasion; Mitzel failed to note a check number issued and date paid for a vendor invoice and thereby failed to retain all paid bills and receipts explaining the amount of and purpose for the disbursement; Mitzel maintained ledgers that contained erroneous and incomplete information; Mitzel used checks that were not numbered consecutively as they were issued; Mitzel failed to transfer existing client operating funds into a newly opened clients' trust accounts in a timely manner; Mitzel charged an owner the rate of \$40 per hour for repairs and maintenance work when the management agreement called for the rate of \$35 per hour; Mitzel charged owners for maintenance and repairs without any supporting documentation or explanation of the charges; and Mitzel allowed a check to be drawn which resulted in a negative balance.

Violations: ORS 696.241(2), 696.301(1) & (28); OAR 863-025-0020(2), (4), (5) & (6); 863-025-0025(1), (3)(a), (e) & (f), (5) & (6); 863-025-0030(1); 863-025-0035(3); 863-025-00402(5); 863-025-0055(2); 863-025-0065(1); 863-015-0255(4) (2003 Edition); 863-025-0025(3)(a), (7) & (10); 863-025-0035(3); 863-025-0070(3) (2005 Edition)

REPRIMANDS

Carlson, Jared Douglas (Bandon) Property Manager #200601202
Stipulated order dated April 28, 2008.
Carlson failed to reconcile the bank balance with the check register and all positive owner ledgers; Carlson issued checks against owner ledgers in excess of the balance on the owner ledger; Carlson failed to maintain owner and tenant ledgers; and Carlson failed to back up data stored on the computerized system at least once every month.

Violations: OAR 863-025-0025(11) & (19), 863-025-0035(1)(j) & (2)(a)

Hall, Terri L. (Lake Oswego) Broker #990300060
Stipulated order dated March 28, 2008.
Hall failed to present seller with transaction documents in a timely manner; Hall allowed seller to sign an addendum after the contract terminated; Hall changed the status of the subject property on RMLS from "pending" to "active" prior to the termination agreement being signed by both parties; and Hall paid for a home warranty.

Violations: ORS 696.805(2)(b) & (c), 696.290; OAR 863-015-0125

Ngo, Moon (Portland) Broker #200407120
Default order dated March 19, 2008. Ngo misrepresented LP siding as cedar siding.
Violation: ORS 696.301(1)

Richardson, Dale Alex (Portland) Broker #200503082
Stipulated order dated June 30, 2008.
Richardson performed a competitive market analysis without first examining the inside of the subject property; and Richardson omitted language requested by the buyers from an addendum he prepared.

Violations: ORS 696.301(12) & (15) ■

Continuing Education for Real Estate Licensees

Thirty hours of continuing education are required to renew a real estate license in Oregon. Principal brokers approve education for themselves and their affiliated licensees. Sole practitioner brokers and property managers approve their own education. **The Oregon Real Estate Agency does not approve continuing education. The Agency does not maintain a list of continuing education course providers.**

Licensees who approve education decide whether a course is in required or elective topics. OAR 863-015-0055 requires that at least 15 hours of continuing education taken by a licensee must be taken within the required topics (see sidebar). The rest of the hours can be either required or elective.

Continuing education must be “real estate-oriented.” It must be a minimum of one hour in length.

Continuing education taken out-of-state may be approved by the approving licensee if the content applies to Oregon. Online or distance education classes may also be approved.

A principal broker may let affiliated brokers use the Advanced Real Estate Practices course for continuing education (Certificates of attendance must be kept by the approving licensee for six years

Visit the Agency’s website at www.oregonrealstate.or.us for more information, or call the Agency at (503) 378-4170. ■

Continuing Education

Required Topics:

- Trust Accounts
- Misrepresentation
- Anti-Trust
- Rule and Law Update
- Property Management
- Commercial Brokerage and Leasing
- Real Estate Taxation
- Agency
- Fair Housing
- Contracts
- Evaluation of Property
- Brokerage Management
- Land
- Business Ethics

Lands Next to Oregon’s Scenic Waterways

Do you represent an owner or buyer of property along a Designated Oregon Scenic Waterway? The property may have land use requirements that are not shown in title reports.

The Scenic Waterways Program balances the protection of the rivers’ natural resources and the lives and plans of property owners who live along them. Under current Oregon Administrative Rules and Oregon Revised Statutes, landowners are required to notify the Oregon Parks and Recreation Department (OPRD) of certain activities proposed within one-quarter mile of the bank of a designated scenic waterway.

Designated Scenic Waterways include portions of the:

- Clackamas River
- Deschutes River
- Elk River
- Grand Ronde River
- Illinois River
- John Day River
- Klamath River
- McKenzie River
- Metolius River
- Minam River
- Nestucca River

- North Fork of Middle Fork of Willamette River
- Owyhee River
- Rogue River
- Sandy River
- North Santiam River
- North Umpqua
- Walker Creek
- Willowa River
- Waldo Lake

Activities that require notification may include tree cutting; mining; and construction of roads, railroads, utilities, buildings or other structures. Other activities also may require notification. The proposed uses or activities may not be started until the written notification is approved, or until one year after the notice is accepted.

For more information about the program and to download a copy of the Scenic Waterways Landowners Guide, please visit the OPRD web site at <http://www.oregon.gov/OPRD/PARKS/index.shtml>. A list of staff contacts are listed on the web site. For additional information, call Jan Houck, (503) 986-0742. ■

Editor’s Note: This article was printed at the request of the Oregon Parks and Recreation Department.

Permanent Advertising and Background Check Rules Effective 7/1/08

The Real Estate Board approved the permanent rule for advertising (OAR 863-015-0125) and the new rules defining the criminal background check process for license applicants. There were no changes in the language of the temporary advertising

rule, so the permanent rule continues the requirements that have been in place since January 18.

The full text of both rules can be found on the Agency's website at www.rea.state.or.us.

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