



Oregon

Kate Brown, Governor

AGENDA ITEM NO.

I.C.

Notice of Agenda

OREGON REAL ESTATE BOARD

Regular Meeting Agenda

Shiloh Inn

2500 Almond St.

Klamath Falls, OR 97601

August 7, 2017

Real Estate Agency
Equitable Center
530 Center St. NE, Suite 100
Salem, Oregon 97301-2505
Phone: (503) 378-4170
Regulations Fax: (503) 373-7153
Admin. Fax: (503) 378-2491
www.oregon.gov/rea

NOTE: The board plans to meet from 10 a.m. until 1:30 p.m., including a “working lunch” period.

I. BOARD BUSINESS – Chair Edwards

- A. Call to Order
- B. Chair Edwards comments/Roll Call
- C. Approval of the Agenda and Order of Business
- D. Approval of 6.5.17, regular meeting minutes
- E. Date of the Next Meeting: 10.02.17, will be held at the Holiday Inn Eugene Springfield, OR 97477 and to begin at 10am.

II. PUBLIC COMMENT – Chair Edwards

- This time is set aside for persons wishing to address the Board on matters not on the agenda. Speakers will be limited to five minutes.
- The Board Chair reserves the right to further limit or exclude repetitious or irrelevant presentations. If written material is included, 12 copies of all information to be distributed to board members should be given to the Board Liaison prior to the meeting.
- Action will not be taken at this meeting on citizen comments. The Board, however, after hearing from interested citizens, may place items on a future agenda so proper notice may be given to all interested parties.
- If no one wishes to comment, the next scheduled agenda item will be considered.

III. REQUESTS FOR WAIVERS – Chair Edwards. None.

IV. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER– Chair Edwards - Approval of petition log.

- A. Real Estate Training Institute, a division of Certified Training Institution. Ms. Teri Francis and Jenny MacDowell to appear by phone.

V. BOARD ADVICE/ACTION – Commissioner Bentley

- A. Make recommendations to the Agency for filing on proposed rule

VI. NEW BUSINESS – Chair Edwards

VII. COMMUNICATIONS – Administrative Actions Summary – Chair Edwards

VIII. REPORTS – Chair Edwards

- A. Commissioner Gene Bentley
- B. Agency division reports-Deputy Commissioner Dean Owens
 1. Regulation Division – Selina Barnes
 2. Land Development Division – Dean Owens
 3. Education, Business and Technical Services Division – Anna Higley

IX. ANNOUNCEMENTS – Chair Edwards. Next board meeting: 10.02.17, will be held at the Holiday Inn Eugene Springfield, OR 97477 and to begin at 10am.

X. ADJOURNMENT – Chair Edwards

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



Oregon

Kate Brown, Governor

Real Estate Agency

530 Center St. NE, Suite 100

Salem, Oregon 97301-2505

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AGENDA ITEM NO.

I.D.

OREGON REAL ESTATE BOARD

Regular Meeting Agenda
Salishan Spa and Golf Resort
7760 US – 101
Glenden Beach, OR 97388

Monday, June 5, 2017

NOTE: The board plans to meet from 10 a.m. until 1:30 p.m., including a “working lunch” period.

I. BOARD BUSINESS – Chair Edwards

- A. Call to Order. Chair Edwards called the meeting to order at 10am.
- B. Chair Edwards comments/Roll Call. Chair Edwards asked the board liaison to take roll call, board members to introduce themselves, and explained the role/function of the board.
- C. Approval of the Agenda and Order of Business. Agenda and Order of Business approved with one revision.

**MOTION TO APPROVE AGENDA AND ORDER OF BUSINESS WITH AMENDMENT TO MOVE AGENDA ITEM VI. B., DISCUSSION RE: QUALIFICATIONS AND STRUCTURE OF PROPERTY MANAGEMENT LICENSES, TO THE 8.7.17 BOARD MEETING AGENDA BY CONI RATHBONE
SECOND BY DAVE HAMILTON
MOTION CARRIED BY UNANIMOUS VOTE**

- D. Approval of 4.3.17, regular meeting minutes

**MOTION TO APPROVE 4.3.17 REGULAR MEETING MINUTES AS SUBMITTED BY CONI RATHBONE
SECOND BY DAVE HAMILTON
MOTION CARRIED BY UNANIMOUS VOTE**

- E. Date of the Next Meeting: 8.7.17, at the Shiloh Inn, 2500 Almond St., Klamath Falls, Oregon 97601 to begin at 10am

II. PUBLIC COMMENT – Chair Edwards

- This time is set aside for persons wishing to address the Board on matters not on the agenda. Speakers will be limited to five minutes.
- The Board Chair reserves the right to further limit or exclude repetitious or irrelevant presentations. If written material is included, 12 copies of all information to be distributed to board members should be given to the Board Liaison prior to the meeting.
- Action will not be taken at this meeting on citizen comments. The Board, however, after hearing from interested citizens, may place items on a future agenda so proper notice may be given to all interested parties.
- If no one wishes to comment, the next scheduled agenda item will be considered.

III. REQUESTS FOR WAIVERS – Chair Edwards. None.

IV. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER– Chair Edwards - Approval of petition log.

- A. Mason McDuffie Mortgage Corp., Jesse Rivera appeared by phone and explained that he used his experience as a former real estate agent and high school teacher as a way to build good relationships. Mr. Rivera also explained that he would be teaching the following topics during his classes: Real estate

finance, contracts, advertising, how to manage brokers, and business ethics, which are acceptable course topics.

**MOTION TO APPROVE MASON MCDUFFIE MORTGAGE CORP. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER BY DAVE KOCH
SECOND BY JEF FARLEY**

MOTION CARRIED BY UNANIMOUS VOTE

V. BOARD ADVICE/ACTION – Commissioner Bentley. None.

VI. NEW BUSINESS – Chair Edwards

- A. Discussion re: Request for Waiver decision process. Deputy Commissioner Owens stated that historically the board scrutinizes the request for waivers as well as do their due diligence when considering these requests. Joann Hansen suggested that the request for waiver form include a section for applicants to indicate their educational background and transaction activity experience.

MOTION TO APPROVE MODIFYING THE REQUEST FOR WAIVER APPLICATION FORM TO INCLUDE APPLICANT'S EDUCATIONAL BACKGROUND AND TRANSACTION ACTIVITY EXPERIENCE BY JOANN HANSEN

SECOND BY DAVE HAMILTON

MOTION CARRIED BY UNANIMOUS VOTE

VII. COMMUNICATIONS – Administrative Actions Summary – Chair Edwards.

VIII. REPORTS – Chair Edwards

- A. Commissioner Gene Bentley
- License counts/statistics. Commissioner Bentley summarized the most current license counts/statistics.
 - Legislative Update
 - SB 67 which is the Agency's driving legislation, has moved to the Governor's Office for approval/signature and the Agency Rule Review Work Group will be meeting on 8.3.17 to review draft rule/changes.
 - SB 68 which deals with the Agency's fee increases, will go into effect January 1, 2018
 - HB 5037 which is the Agency budget bill, will go into effect July 1, 2017.
- B. Agency division reports-Deputy Commissioner Dean Owens
1. Regulation Division – Selina Barnes. Ms. Barnes announced that she would be presenting the Tips for Staying Out of Trouble with the Agency class @ 1:30pm to follow the board meeting. She also explained that her staff participated in an offsite meeting to review the draft rules regarding SB67. Staff also reviewed the mail in CTA process at this meeting and some changes are being considered, more to come.
 2. Land Development Division – Dean Owens. Deputy Commissioner Owens summarized the statistics provided in the division handout and noted that there has been an increase in filing activity.
 3. Education, Business and Technical Services Division – Dean Owens. Deputy Commissioner Owens summarized the statistics provided in the division handout and asked Maddy Alvarado to address the board. Ms. Alvarado summarized additional statistics provided in the division handout regarding phone stats, escrow renewals, and pre-licensing. She also reported that renewals will be done online this year and providers will be able to submit changes/courses online as well. Ms. Alvarado stated that CE audits are in progress and all were in compliance with Agency expectations.

IX. ANNOUNCEMENTS – Chair Edwards. Next board meeting: 8.7.17 at the Shiloh Inn, 2500 Almond St. Klamath Falls, Oregon 97601 to begin at 10am

X. ADJOURNMENT – Chair Edwards. Chair Edwards adjourned the meeting at 12:10pm.

Respectfully submitted,

Respectfully submitted,

GENE BENTLEY, COMMISSIONER

MARCIA EDWARDS, BOARD CHAIR

DRAFT

**AGENDA ITEM NO.
IV.**

**OREGON REAL ESTATE BOARD
CEP LOG
2016-2017**

4.4.16	John Estrem	APPROVED	<p>FACTS: Mr. Estrem appeared by phone and reviewed his qualifications which included providing education for approximately 15 years. He also explained he provides education on the topic of risk management, which is considered an acceptable course topic. Chair Hermanski asked Mr. Estrem if he was aware of the record keeping requirements for continuing education providers and he responded that he was aware of the record keeping requirements.</p> <p>DISCUSSION: None.</p> <p>MOTION TO APPROVE JOHN ESTREM'S PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER BY CONIE RATHBONE SECOND BY PAT IHNAT MOTION CARRIED BY UNANIMOUS VOTE</p>
6.6.16	Kenneth Holman	WITHDRAWN	Mr. Holman withdrew his petition and indicated his intention to re-petition the board as a trade association at a later date.
6.6.16	CMPS Institute (Gibran Nicholas)	APPROVED	<p>FACTS: Chair Hermanski asked CMPS to summarize the basis of their petition. Gibran Nicholas explained that CMPS Institute has provided education across the country and is approved in 10 states to provide CE to real estate agents. Mr. Nicholas also explained CMPS Institute offers the following acceptable course topics: advertising; regulation; consumer protection; real estate taxation; and finance. Chair Hermanski asked if they were familiar with the record keeping requirements and Ms. Nicholas responded that they are familiar with the record keeping requirements</p> <p>DISCUSSION: None.</p> <p>MOTION TO APPROVE CMPS INSTITUTE'S PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER BY MARCIA EDWARDS SECOND BY LAWNAE HUNTER MOTION CARRIED BY UNANIMOUS VOTE</p>
10.3.16	Michelle Moore	APPROVED	<p>FACTS: Ms. Moore explained that she had nine years of experience in providing continuing education courses covering the following topics: real estate consumer protection, risk management, dispute resolution, and negotiation, which are considered acceptable course topics. Dave Koch asked Ms. Moore if she was familiar with the record keeping requirements involved with being a provider and she responded that she was aware of the requirements.</p> <p>DISCUSSION: None</p> <p>MOTION TO APPROVE BY DAVE KOCH SECOND BY LAWNAE HUNTER MOTION CARRIED BY UNANIMOUS VOTE</p>
12.05.16	Brix Law LLP	APPROVED	<p>FACTS: Laura Craska Cooper and Brad Miller appeared by phone and Mr. Miller explained Brix Law LP specializes in real estate and land use transactions and both he and Ms. Craska Cooper had an extensive amount of experience in the following areas: real estate leasing, acquisitions, development, financing, general business, and negotiations. Chair Hermanski asked Mr. Miller and Ms. Craska Cooper if they were familiar with the record keeping requirements as a certified education instructor and Mr. Miller responded that they were familiar this requirement.</p> <p>DISCUSSION: None.</p>
02.06.17	Systems Effect LLC	APPROVED	<p>FACTS: Mr. Jordan appeared by phone and explained that Systems Effect LLC is a distance learning company that has been in business since 2008 and is currently approved to provide real estate continuing education courses in Arizona, Kansas, Minnesota, Missouri, and Ohio. He also stated that the courses offered cover the following acceptable topics: Principal broker record keeping and supervision, trust accounts, agency relationships, misrepresentation, disclosure, contracts, appraisal, fair housing, risk management, water rights, environmental protection, land use, real estate law, negotiation, and others. Dave Koch asked Mr. Jordan if a tracking device was in place to monitor class time and he responded that there is a timer in place to verify that students meet the required course time. Alex MacLean asked Mr. Jordan if there is a resource for student assistance with questions they might have and Mr. Jordan responded that there is a FAQ information, email system, and staff available for students.</p>

			DISCUSSION: None.
02.06.17	American Dream Real Estate School LLC	APPROVED	FACTS: Herbert Nagamatsu appeared by phone and explained that American Dream Real Estate School created, administered and delivered online courses and training programs to students since 2005. He also stated that the courses offered cover the following acceptable topics: Contracts, Risk Management, and real estate finance. Dave Koch asked Mr. Nagamatsu how he derived the questions for the courses and he responded that the topics covered meet with rule and law. Alex MacLean asked Mr. Nagamatsu how students communicate with instructors he responded that contact information for instructors is posted online for students. Mr. Koch asked Mr. Nagamatsu how class time was tracked and he responded timing mechanisms were in place behind the scenes. Mr. Koch also asked Mr. Nagamatsu to explain his record keeping process and he responded records are kept for minimum of 3 years and backup for seven years. DISCUSSION: None
02.06.17	Asset Preservation Inc.	APPROVED	FACTS: Elisa Mas appeared by phone and explained that Asset Preservation, Inc. has provided 1031 exchange courses for continuing education to real estate professionals all over the nations for over 25 years and was also approved to teach continuing education courses in Texas, New York, Florida, Colorado, Washington, Oklahoma, New Jersey, and Arizona as well as Oregon, previously. She also stated that the courses offered cover the following acceptable topics: Real estate taxation and Real Estate Finance. Alex MacLean asked Ms. Mas when her company was certified and she responded approximately one year ago. Mr. MacLean also asked Ms. Mas is her company was currently certified and if not, to explain the gap in time. Ms. Mas explained the previous administrator was expired and now they want to be certified again. DISCUSSION: None.
02.06.17	Military Mortgage Boot Camp	APPROVED	FACTS: Mike Fischer appeared by phone and explained the current class offered is a 2 or 3 hour version which covers appraisal, VA assistance, and transaction coordination. Chair Edwards asked Mr. Fischer which acceptable topics were covered in the courses offered and he responded that consumer protection was the topic covered. Dave Hamilton stated he would like to see Oregon's program incorporated in the course and Mr. Fischer responded they could incorporate Oregon's program. Chair Edwards clarified that although, incorporating Oregon's program was not a requirement or contingency, it was encouraged. DISCUSSION: None
02.06.17	Fairway Independent Mortgage Corp.	APPROVED	FACTS: Kate Myers appeared before the board and explained Fairway Independent Mortgage Corp. was one of the mortgage companies that is allowed to handle VA loans. Chair Edwards asked Ms. Myers which acceptable course topics are covered in their courses and she responded that real estate finance was the topic offered. Dave Koch asked Ms. Myers if there was a record keeping mechanism in place and she responded there is an administrator who would be assigned the record keeping duties DISCUSSION: None.
04.03.17	Envoy	APPROVED	FACTS: Mr. Varcak appeared by phone and explained he has taught first time home buyers courses and facilitated other trainings. He also said he teaches courses covering the topic of Real Estate Finance, which is an acceptable course topic. Mr. Varcak indicated that his goal was to provide a more structured training program through Envoy. Coni Rathbone asked Mr. Varcak if he has kept track of continuing education credits and he responded that although he had not kept track of credits in the past, he did review all the record keeping requirements and was prepared to follow them. Dave Koch of he intended to use instructors to provide variety of topics and Mr. Varcak responded that he did intend to utilize other instructors. Commissioner Bentley asked Mr. Varcak if he had considered being an instructor rather than a provider and Mr. Varcak responded that his company wanted to provide their own coursework. DISCUSSION: None
04.03.17	Oregon Rental Housing Association Education Inc.	APPROVED	FACTS: Ms. Pate appeared and explained ORHA Education Inc. is seeking a grant to provide supplemental education to landlords, tenants, and public education. Chair Edwards asked Ms. Pate which location records would be kept and she responded that she believed the Salem office located on Commercial St. would house the records. Commissioner Bentley asked Ms. Pate to clarify the topics that would be offered and she explained she intended to offer courses covering the following topics: Property management, advertising, any type of fair housing issue, real contracts, business ethics, and dispute resolution, which are all acceptable course topics. DISCUSSION: None
06.05.17	Mason McDuffie Mortgage Corp.	APPROVED	FACTS: Mason McDuffie Mortgage Corp., Jesse Rivera appeared by phone and explained that he used his experience as a former real estate agent and high school teacher as a way to build good relationships. Mr. Rivera also explained that he would be teaching the following topics during his classes: Real estate finance, contracts, advertising, how to manage brokers, and business ethics, which are acceptable course topics. DISCUSSION: None



PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER

Rev. 1/2017

INSTRUCTIONS

To petition the Real Estate Board for approval of qualifications to become an applicant for certification as a continuing education provider, the petitioner must complete this form and submit it by e-mail to madeline.c.alvarado@state.or.us a least 21 days before the next scheduled Board meeting at which the applicant wishes the Board to act.

IMPORTANT:

- ▶ If the petitioner is an entity, the information provided must pertain to that entity. If the petitioner is an individual, the information provided must pertain to that individual.
- ▶ All information and documents submitted as part of this petition become part of the Board Packet, and therefore, public record.
- ▶ Petitioners will need to appear before the Board. This may be done in person or by phone. Once the Agency receives this completed petition, a letter will be sent to the petitioner with the date of the Board meeting the petitioner will need to attend.

If the Board approves this petition, the Agency will mail a letter to the petitioner, at the mailing address provided, confirming the Board's approval. The petitioner may then apply for certification as a continuing education provider under OAR 863-020-0030.

PETITIONER

Name Real Estate Training Institute, a division of Certified Training Instit Phone Number 800-727-7104

Physical Address 3135 Logan Valley Rd Address Cont. _____

City Traverse City State MI Zip Code 49684 County Grand Traverse

E-mail info@onlinecti.com

Mailing Address (if different) _____ Address Cont. _____

City _____ State Zip Code _____ County _____

AUTHORIZED CONTACT PERSON

Prefix Ms. First Name Teri Last Name Francis

Phone Number 231-943-2964 E-mail teri@onlinecti.com

Indicate who will appear before the board on behalf of the Petitioner: Teri Francis and Jenny MacDowell -- by phone

AGENCY USE ONLY

Approved by Board YES NO

Review Date _____

PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER, Continued

QUALIFICATION INFORMATION

Provide below sufficient information about the petitioner to allow the Board to determine whether the petitioner qualifies for certification. **If the petitioner is an entity, the information provided must pertain to that entity. If the petitioner is an individual, the information provided must pertain to that individual.**

Information **MUST** include one or both of the following:

- ▶ Petitioner's demonstrated expertise and experience in providing educational courses to real estate licensees.
- ▶ Petitioner's demonstrated experience and expertise in two or more course topics eligible for continuing education credit under OAR 863-020-0035.

You may attach up to **three (3)** additional pages if necessary.

Certified Training Institute, a distance learning provider with a total of 16 real estate courses approved by ARELLO, submits this petition to operate and market in Oregon as "Real Estate Training Institute, a division of Certified Training Institute".

Operating as "Real Estate Training Institute, a division of Certified Training Institute", Certified Training Institute currently has approved courses in 18 states. Of the 16 ARELLO approved real estate courses, 11 courses are directly applicable to the Agency's approved topics (please see attached page for our list of courses). Certified Training Institute currently reports the completion of real estate continuing education courses to 12 of the 18 states we work with, as well as reporting the completion of continuing education courses for builders in Oregon.

We respectfully request to be approved as "Real Estate Training Institute, a division of Certified Training Institute" to offer real estate continuing education in Oregon.

AUTHORIZATION AND ATTESTATION

- ▶ I hereby certify that I am authorized to submit this form on behalf of the petitioner and that the information is true and accurate, to the best of my knowledge.
- ▶ I acknowledge that petitioner, or authorized individual on petitioner's behalf, has read, understands and is ready to comply with the statutory and administrative rule provisions applicable to certified continuing education providers.
- ▶ I attest that petitioner knows and understands the responsibilities of a certified continuing education provider under OAR 863-020-0050.
- ▶ I attest that petitioner knows and understands the requirements of an instructor under ORS 696.186 and the information required on a continuing education instructor qualification form under OAR 863-020-0060.

Teri Francis

Date 7/7/2017

Printed Name of Authorized Individual



Signature of Authorized Individual

Real Estate Training Institute, a division of Certified Training Institute

Course offerings

Agency eligible topic – Real Estate Training Institute course title (#xxxx)

- (b) Principal real estate broker supervision responsibilities – Practical Brokerage 3hr CE (#6671)
- (d) Agency relationships and responsibilities for brokers, principal brokers, or property managers – Agency 3hr CE (#6658)
- (h) Real estate disclosure requirements – Real Estate Disclosure Laws 3hr CE (#7079)
- (i) Real estate consumer protection – Lead Paint Awareness 4hr CE (#6793)
- (l) Real estate contracts – Real Estate Contracts 4hr CE (#7031)
- (m) Real estate taxation – Taxes 3hr CE (#6874)
- (o) Fair Housings laws or policy – Fair Housing 3hr CE (#6785)
- (q) Business ethics – Code of Ethics 3hr CE (#6650) (NAR compliant)
- (r) Risk Management – Risk Management 3hr CE (#6670)
- (t) Real estate finance – Finance 3hr CE (#6708)
- (cc) Environmental protection issues in real estate – Environmental Issues 3hr CE (#6881)

ADMINISTRATIVE ACTIONS
Reported
3/13/17 through 7/12/17

REVOCATIONS

O'Neal, Debra (Oakridge) Property Manager 201110063, Default Order dated July 10, 2017, issuing a revocation and \$10,000 civil penalty for failure to produce property management records.

SUSPENSIONS

Steele, Gregory (Beaverton) Property Manager 960800136, Stipulated Order dated May 1, 2017 issuing a reprimand with education.

Stohl, Susan (Lake Oswego) Broker 201206237, Stipulated Order dated April 10, 2017, issuing a 90-day suspension and a limited license for a period of five years.

REPRIMANDS

Stiles, Jeffry (The Dalles) Property Manager 20050210, Stipulated Order dated April 10, 2017, issuing a reprimand.

Walls, Donald (Hermiston) Principal Broker 970900218, Stipulated Order dated June 2, 2017, issuing a reprimand with education.

Westphal, Linda (Florence) Principal Broker 900500059, Stipulated Order dated June 13, 2017, issuing a reprimand with education.

CIVIL PENALTIES

Expired — Late Renewal civil penalties are computed using each 30-day period as a single offense. The civil penalty for the first 30-day period can range from \$100-\$500, with each subsequent 30-day period ranging from \$500-\$1,000. ORS 696.990

Berrey, Dan (Sisters) former Principal Broker 780300166 (previously revoked), Cease & Desist Order dated March 29, 2017 levying a \$1,100 civil penalty for unlicensed activity.

Hitchcock, Lawrence (Happy Valley) Broker 201215620, Stipulated Order dated June 1, 2017 levying a \$750 civil penalty for unlicensed activity.

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of)

5
6 DEBRA LYNN O'NEAL)

FINAL ORDER BY DEFAULT

7
8
9 1.

10 1.1 On May 15, 2017, the Real Estate Commissioner issued, by certified mail, a
11 notice of intent to levy a civil penalty and revoke the real estate property manager license of
12 Debra Lynn O'Neal (O'Neal). The Real Estate Agency (OREA) sent the notice of intent to
13 O'Neal's last known address of record with the OREA. The notice of intent was also mailed to
14 O'Neal by regular first class mail in a handwritten envelope.

15 1.2 The certified mailing and the first class mailing of the notice of intent were sent to
16 O'Neal at the following addresses: PO Box 714, Oakridge, OR 97463, 47763 Hwy 58,
17 Oakridge, OR 97463, and 46831 Sunset Ave. Westfir, OR 97492.

18 1.3 OREA received back the certified mailing of the notice of intent to PO Box 714,
19 Oakridge, OR 97463. The mailing was marked, "Return to Sender Unclaimed Unable to
20 Forward." The regular mailing of the notice to this address was not returned.

21 1.4 OREA received back both the certified mailing and the regular mailing of the
22 notice of intent mailed to 47763 Hwy 58, Oakridge, OR 97463. The certified mailing was
23 stamped, "Not deliverable As Addressed Unable to Forward," and handwritten on the envelope
24 was, "PO Box 714." The regular mailing of the notice of intent to this address was stamped,
25 "Return to Sender No Mail Receptacle Unable to Forward Return to Sender."

26 1.5 OREA received back the certified mailing of the notice of intent to 46831 Sunset
27 Ave. Westfir, OR 97492. This was stamped, "Not Deliverable As Addressed Unable to
28 Forward." Handwritten on the envelope were several notations including, "Unc," and "6-2 Rts
29 Unc." The first class regular mailing of the notice of intent was not returned to OREA for this
30 address.

1 "Unc," and "6-2 Rts Unc." The first class regular mailing of the notice of intent was not
2 returned to OREA for this address.

3 2.7 The mailings of the notice of intent in the handwritten envelope has not been
4 returned to OREA for the following addresses, PO Box 714, Oakridge, OR 97463 and 46831
5 Sunset Ave., Westfir, OR 97492. In accordance with ORS 40.135(1)(q), there is a
6 presumption that the mailing properly addressed and placed with the U.S. Postal Service was
7 delivered. That presumption has not been overcome by any evidence.

8 2.8 Over twenty (20) days have elapsed since the mailing of the notice and no
9 written request for a hearing has been received.

10 2.9 Pursuant to ORS 696.775, the expiration of O'Neal's license does not prohibit the
11 Commissioner from proceeding with further action.

12 FINDINGS OF FACT

13 &

14 CONCLUSIONS OF LAW

15 3.

16 3.1 On October 23, 2015, OREA issued O'Neal a property manager license.
17 O'Neal's license was associated with the registered business name Mountain Property
18 Management (MPM).

19 3.2 Prior to O'Neal becoming licensed, she worked as an assistant property manager
20 for Kingsbury Real Estate Inc. On May 1, 2013, Joy Kingsbury closed her property
21 management business. With Kingsbury's property management records, O'Neal assumed
22 property management activity under an Independent Contractor Agreement with principal
23 broker, Linda Moody of Town and Country Realty, Inc.

24 3.3 On June 30, 2016, OREA issued an Order on Default issuing a \$28,500.00 civil
25 penalty to O'Neal for unlicensed property management activity conducted before she obtained
26 a license.

27 3.4 On March 9, 2016, OREA received an email from Sandy Price (Price), a principal
28 broker, regarding concerns she had concerning O'Neal, after four property owners reported to
29 Price late or missing rents from O'Neal's management of their property. On March 23, 2016,
30 OREA opened an investigation.

1 3.5 On January 1, 2017, O'Neal failed to renew her license, and her license expired.

2 3.6 O'Neal did not properly register the clients' trust accounts ending in #8311 and
3 #6667, as required, in the OREA licensing system.

4 3.7 On October 14, 2015, OREA received by fax a Notice of Clients' form signed by
5 O'Neal, dated October 8, 2015, for clients' trust account, "Mountain Property Management Inc.
6 Property Management Checking- Client Trust Account," ending in #8311 and "Mountain
7 Property Management Inc. Security Deposits Client Trust Account- Savings," ending in #6667.

8 **Violation:** By failing to properly register the following clients' trust accounts: "Mountain
9 Property Management Inc. Property Management Checking- Client Trust Account," ending in
10 #6667, and "Mountain Property Management Inc. Security Deposits Client Trust Account-
11 Savings," ending in #8311, with OREA, O'Neal violated ORS 696.301(3) as it incorporates
12 696.241(4)(2015 Edition) which states, within 10 business days after the date a clients' trust
13 account is opened, a licensed real estate property manager or principal real estate broker shall
14 file with the Real Estate Agency, on forms approved by the agency, the following information
15 about the clients' trust account: a) the name of the bank; b) the account number; c) the name
16 of the account; d) the date the account was opened; and e) a statement by the licensed real
17 estate property manager authorizing the Real Estate Commissioner or commissioner's
18 representative to examine the clients' trust account at such times as the commissioner may
19 direct.

20 3.8 O'Neal did not properly register the clients' trust account ending in #0007, as
21 required, in the OREA licensing system.

22 3.9 O'Neal submitted a Notice of Clients' Trust Account for "Mountain Property
23 Mgmt- Client Trust Account- Checking" account ending in #0007, at Banner Bank, to OREA
24 dated October 5, 2015, with "Void" written across the notice. Records indicate that O'Neal
25 continued to use the account to maintain and disburse funds from the account through
26 December 31, 2015. Documents submitted indicate this account was closed as of April 11,
27 2016.

28 ///

29 ///

30 ///

1 **Violation:** By failing to properly register Mountain Property Mgmt-Client Trust Account-
2 Checking account ending in #0007 with OREA, and failing to notify OREA of the account
3 closing, O'Neal violated ORS 696.301(3) as it incorporates ORS 696.241(4) and (6) (2015
4 Edition) which states: (4) Within 10 business days after the date a clients' trust account is
5 opened, a licensed real estate property manager or principal real estate broker shall file with
6 the Real Estate Agency, on forms approved by the agency, the following information about the
7 clients' trust account: a) the name of the bank; b) the account number; c) the name of the
8 account; d) the date the account was opened; and e) a statement by the licensed real estate
9 property manager authorizing the Real Estate Commissioner or commissioner's representative
10 to examine the clients' trust account at such times as the commissioner may direct; (6) A
11 licensed property manager who closes a clients' trust account shall notify the agency, within 10
12 business days after the date the account is closed. Additionally, O'Neal demonstrated
13 incompetence or untrustworthiness in performing any act for which the licensee is required to
14 hold a license, in violation of ORS 696.301(12) (2015 Edition).

15 3.10 O'Neal failed to properly register clients' trust accounts ending in #6245 and
16 #6278, as required, in the OREA licensing system.

17 3.11 O'Neal submitted a Notice of Clients' Trust Account form dated January 4, 2016,
18 and was received by OREA on April 5, 2016. The form included the following accounts,
19 "Mountain Property Management Inc. Client Trust Savings," ending in #6245 (security deposits
20 account) and "Mountain Property Management Inc. Client Trust Checking," ending in #6278
21 (clients' trust account) at First Tech Federal Credit Union. O'Neal did not register the clients'
22 trust accounts ending in #6245 and #6278, as required, with a statement authorizing OREA to
23 examine the clients' trust accounts.

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1 **Violation:** By failing to properly register with "Mountain Property Management Inc.
2 Client Trust Savings," ending in #6245 (security deposits account) and "Mountain Property
3 Management Inc. Client Trust Checking," ending in #6278 (clients' trust account) with OREA,
4 O'Neal violated ORS 696.301(3) as it incorporates ORS 696.241(4) (2015 Edition) which
5 states, within 10 business days after the date a clients' trust account is opened, a licensed real
6 estate property manager or principal real estate broker shall file with the Real Estate Agency,
7 on forms approved by the agency, the following information about the clients' trust account: a)
8 the name of the bank; b) the account number; c) the name of the account; d) the date the
9 account was opened; and e) a statement by the licensed real estate property manager
10 authorizing the Real Estate Commissioner or commissioner's representative to examine the
11 clients' trust account at such times as the commissioner may direct.

12 3.12 On March 31, 2016, OREA Investigator/Auditor, Meghan Lewis (Lewis), met
13 O'Neal at O'Neal's office. During the visit, Lewis requested documents and O'Neal failed to
14 produce her records for inspection.

15 **Violation:** By failing to have her records available upon inspection during the March 31,
16 2016, office visit, O'Neal violated ORS 696.301(3) as it incorporates ORS 696.280(3) (2015
17 Edition) which states records maintained under this section must at all times be open for
18 inspection by the Real Estate Commissioner or the commissioner's authorized representatives.

19 3.13 After the March 31, 2016, office visit, Lewis sent an email to O'Neal requesting
20 multiple documents from O'Neal, including, but not limited to: 1) CTA reconciliations for
21 January and February 2016 and the supporting documentation, 2) a signed and completed
22 Inventory and Authorization form referencing all of O'Neal's clients' trust accounts, and 3)
23 property management agreements for owners Floyd and Virginia Staley and Doug Scholten.
24 The documentation was required to be produced no later than April 4, 2016.

25 3.14 On April 1, 2016, Lewis made another request to O'Neal requesting records. On
26 April 5, 2016, Lewis contacted O'Neal to let her know OREA had received some of her records
27 via fax, but it appeared the CTA reconciliations had not been received.

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1 3.15 On April 20, 2016, Lewis requested all owner and tenant ledger documentation
2 along with the outstanding reconciliations. O'Neal was given the final deadline of April 22,
3 2016 to produce her records. O'Neal failed to produce the reconciliations and supporting
4 documentation for January and February 2016.

5 3.16 Some records for property owners Floyd and Virginia Staley, and Doug Scholten
6 were received from O'Neal on April 5, 2016. However, O'Neal did not produce a property
7 management agreement for Staleys, or Scholten.

8 **Violation:** By failing to produce the requested January 2016 and February 2016, clients'
9 trust account monthly reconciliations and supporting documentation, by the April 4, 2016, and
10 April 22, 2016, deadlines, O'Neal violated ORS 696.301(3) as it incorporates OAR 863-025-
11 0035(2) (5-15-14 Edition) which states a property manager must produce records under
12 section (1) of this rule for inspection by the Agency as follows: (a) when the Agency makes a
13 request for production of property management records, the property manager must provide
14 such records with no less than five banking days; and (b) If the Agency has reasonable
15 grounds to believe that funds of an owner or tenant may be missing or misappropriated or that
16 the property manager is engaging in fraudulent activity, any records demanded or requested
17 by the Agency must be produced immediately; and (c) Failure to provide such records within
18 the timelines stated in subsection (a) or (b) of this section is a violation of ORS 696.301.

19 **Violation:** By failing to produce the property management agreements for owners,
20 Floyd and Virginia Staley and Doug Scholten, by April 4, 2016, O'Neal violated ORS 696.301
21 (3) as it incorporates OAR 863-025-0035(2) (5-15-14 Edition) which states a property manager
22 must produce records under section (1) of this rule for inspection by the Agency as follows: (a)
23 when the Agency makes a request for production of property management records, the
24 property manager must provide such records with no less than five banking days; and (b) If the
25 Agency has reasonable grounds to believe that funds of an owner or tenant may be missing or
26 misappropriated or that the property manager is engaging in fraudulent activity, any records
27 demanded or requested by the Agency must be produced immediately; and (c) Failure to
28 provide such records within the timelines stated in subsection (a) or (b) of this section is a
29 violation of ORS 696.301.

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1 3.17 When O'Neal obtained her property management license and registered her
2 business name of Mountain Property Management, Inc., she was still managing properties
3 under property management agreements with the name of Town & Country Realty, Inc., from
4 when she worked previously under Linda Moody, (before O'Neal was licensed). During the
5 investigation, Lewis noted O'Neal managed 76358 Rainbow Street in Oakridge, OR on behalf
6 of property owner Lee Cowart (Cowart). Cowart had signed a property management
7 agreement with Moody and O'Neal, at Town & Country Realty, Inc, effective May 1, 2013.
8 When O'Neal obtained her license and registered her business name of Mountain Property
9 Management on October 23, 2015, she failed to create an amendment or addendum to the
10 property management agreement with Cowart to reflect the change of business.

11 3.18 Additionally, O'Neal managed property at 47636 Cline Street, Oakridge OR, on
12 behalf of J&J Real Properties, LLC. A review of the property management agreement shows it
13 signed by Moody and initialed, "JE", but not signed by a representative of J&J Real Properties.
14 O'Neal did not have a current property management agreement or addendum with Mountain
15 Property Management, Inc as the property management company for the Cline Street
16 property.

17 **Violation:** By failing to create an amendment or addendum to the property
18 management agreement for property owners Lee Cowart and J&J Real Properties, LLC
19 reflecting the new registered business name, O'Neal violated ORS 696.301(3) as it
20 incorporates ORS 696.026(6)(b), and (7)(a) (2015 Edition), which states, (6) a licensed real
21 estate property manager may conduct professional real estate activity only under the name
22 under which the property manager's license was issued or (b) a registered business name, (7)
23 if a property manager has a registered business name: (a) all professional real estate activity
24 conducted by the property manager must be conducted under the registered business name.

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1 3.19 Lewis reviewed multiple property management records of O'Neal's. On owner
2 ledgers for property owners Lee Cowart, Floyd and Virginia Staley, Doug Scholten, Lila
3 Castleman, and J&J Real Properties, the following required detail was missing for the receipt
4 of funds:

- 5 • For each receipt of funds the identity of the person who tendered the funds
- 6 • The check number, cash receipt number or unique series of letters and/or
7 numbers that establish an audit trail to the receipt of funds

8 For each disbursement of funds:

- 9 • The following detail was missing on some of the owner ledgers, the check
10 number or bank generated electronic tracking number
- 11 • All owner ledgers lacked the balance after each recorded entry.

12 **Violation:** By failing to have all the required details on the owner ledgers for property
13 owners Lee Cowart, Floyd and Virginia Staley, Doug Scholten, Lila Castleman, and J&J Real
14 Properties, O'Neal violated ORS 696.301(3) as it incorporates OAR 863-025-0055(3)(b)(B),
15 (C),(c)(C)(d) (5-15-14 Editions) which states (3) all owners ledgers must contain at least the
16 following information, (b) for each deposit of funds: (B) the purpose of the funds and identity of
17 the person who tendered the funds; (C) the check number, cash receipt number or a unique
18 series of letters and/or numbers that established an audit trail to the receipt of the funds, and
19 (c) for each disbursement of the funds: (C) the check number and bank generated electronic
20 tracking number; and (d) the balance after each recorded entry.

21 3.20 On March 31, 2016, O'Neal was requested to produce supporting documentation
22 for charges against Cowart's client trust funds for roof repairs. Lewis reviewed the supporting
23 documentation O'Neal produced for Cowart.

24 3.21 A review found invoice, E24770/2, dated November 21, 2015, for \$457.52 from
25 Jerry's Home Improvement Center. Invoice E24770/2 indicates a cash payment of \$500.00
26 and change given of \$42.48. The invoice description is for painting supplies, and includes a
27 purchase of a Sprite, Coke and Cheetos. Cowart's owner ledger shows a disbursement of
28 \$457.00, described as, "Jerrys", to payee, Mountain Property Management. Inc. O'Neal did
29 not reimburse Cowart for the food items purchased, which totaled \$6.87.

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1 3.22 There was no supporting documentation produced by O'Neal for the following
2 transactions that showed on Cowart's owner ledger as roof repair:

- 3 • Disbursement on November 14, 2015, to payee in Town and Country in the
4 amount of \$340.00 identified as Materials Repair Roof"/Up."
- 5 • Check #2041, in the amount of \$787.50 payable to Mountain Property
6 Management, Inc., described as, "Repair Roof&Replace Flooring."

7 3.23 A disbursement to Cowart is dated January 10, 2016, with check #4011,
8 described as, "Rent Payment," for \$148.90 and the final disbursement shown on the owner
9 ledger is dated February 15, 2016, for \$618.00, described as, "Rent Payment," also with check
10 #4011. A photocopy of check #4011 is shown on the owner ledger. The check is dated
11 February 9, 2016, for \$766.90. The memo line of check #4011 is handwritten, "#76358
12 Jan/Feb pymt." The disbursement as shown on the owner ledger, dated January 10, 2016,
13 was not disbursed until either February 9, 2016, the date of check #4011, or February 15,
14 2015, the date of the disbursement for check #4011, as seen on the owner ledger. It was
15 unclear by the records maintained by O'Neal.

16 **Violation:** By purchasing food items using owner funds as demonstrated on invoice
17 E24770/2, failing to properly account for owner funds regarding \$1127.00 purchases for roof
18 materials, and failing to disburse client trust funds from the owner's ledger according to the
19 date and amount entered in the ledger, O'Neal violated ORS 696.890(4)(a)(c)(d)(e) (2015
20 Edition) which states a real estate property manager owes the property owner the following
21 affirmative duties: (a) to deal honestly and in good faith; (c) to exercise reasonable care and
22 diligence; (d) to account in a timely manner for all funds received from or on behalf of an
23 owner; and (e) to act in a fiduciary manner in all matters relating to trust funds. Additionally,
24 O'Neal's actions demonstrate incompetence or untrustworthiness in performing any act for
25 which the licensee is required to hold a license, in violation of ORS 696.301(12) (2015 Edition).
26 O'Neal's conduct is grounds for discipline under ORS 696.301(12) and (15).

27 3.24 On May 12, 2016, OREA received a call from property owner Lila Castleman
28 after she had not received rental income for several months from O'Neal. During the call
29 Castleman alleged she had not received any rental income on her property since August 2015.

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1 3.25 Sometime around January 2016, Castleman went to O'Neal's office to speak to
2 O'Neal about the missing rent. O'Neal alleged the property was vacant and Castleman verified
3 this. During her visit with O'Neal, Castleman received a rent check that day dated December
4 31, 2015, from O'Neal.

5 3.26 By March 2016, Castleman had not received any additional rent checks.
6 Castleman drove to Oakridge to check on her rental property. Castleman was able to speak to
7 the current renters, who told her they had moved in on February 23, 2016, and paid first and
8 last month's rent and a \$650.00 security deposit. Castleman alleged she had not received any
9 rent since the check dated December 31, 2016.

10 3.27 In an email dated May 6, 2016, Castleman terminated her property management
11 agreement. She requested O'Neal send her money that was owed and the current tenant's
12 deposits. On May 12, 2016, Castleman received rental income for April 2016, check # 4042,
13 dated April 10, 2016, for \$600.00. No owner statements were provided to Castleman for
14 January through May 2016.

15 3.28 A review of Castleman's owner ledger shows rental income received through
16 December 28, 2015.

17 **Violation:** O'Neal failed to report changes in the owner ledger to Castleman, for the
18 months of January through May 2016, in violation of ORS 696.301(3) as it incorporates OAR
19 863-025-0055(4) (5-15-14 Edition) which states a property manager must report in writing to
20 each owner any change in the owner's ledger. A monthly report, showing all receipts and
21 disbursements for the account of the owner during the prior monthly period is sufficient under
22 this section.

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ORDER

IT IS HEREBY ORDERED that O'Neal's property manager license is revoked.

IT IS FURTHER ORDERED that pursuant to ORS 696.990, O'Neal pay a civil penalty in the sum of \$10,000, and said penalty to be paid to the General Fund of the State Treasury by paying the same to OREA. The civil penalty is for O'Neal's failure to comply with the rules that require the licensee to produce records for inspection related to the management of rental real estate.

Dated this 10th day of July, 2017.

OREGON REAL ESTATE AGENCY



GENE BENTLEY

Real Estate Commissioner

Date of Service: 7/10/2017

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this order. Judicial review is pursuant to the provisions of ORS 183.482.

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of

5
6 GREGORY A. STEELE

7
8 } STIPULATED FINAL ORDER
9

10 The Real Estate Agency (OREA) and Gregory A. Steele (Steele) do hereby agree and
11 stipulate to the following:

12 FINDINGS OF FACT
13 &
14 CONCLUSIONS OF LAW

15 1.

16 1.1 At all times mentioned herein, Steele was licensed as a property manager doing
17 business under the registered business name of Professional Property Management (PPM).

18 1.2 In June 2015 OREA opened an investigation.

19 1.3 As of July 17, 2014, the PPM main office address on file at OREA was 7234 SW
20 Scholls Ferry Rd. #1, Beaverton, OR 97008.

21 1.4 It was later discovered in the investigation, that as of August 6, 2013, the main
22 office address of PPM had changed to 16409 SW Spindler Court, Tigard, OR 97008, and
23 OREA had not been notified of the new office location.

24 **Violation:** By failing to notify OREA of a change in address for PPM's main office
25 location from 7234 SW Scholls Ferry Road #1, Beaverton, OR 97008 to 16409 SW Spindler
26 Court, Tigard, OR 97008, Steele violated ORS 696.200(1)(d)(2) (2013 and 2015 Editions),
27 which requires a property manager to notify the agency prior to changing a main office
28 location. Per ORS 696.200(1)(d)(2), the changing of a business location without notification to
29 the Agency as required is grounds for revocation of a real estate license.

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1 1.5 Steele held rental income and tenant security deposits combined in one bank
2 account, rather than opening and maintaining a separate CTA for tenant security deposits. In
3 May 2015, Steele opened a separate bank account for tenant security deposits.

4 **Violation:** By failing to open and maintain a "Clients' Trust Account- Security Deposits",
5 separate from the Clients' Trust Account until May 1, 2015, Steele violated OAR 863-025-0025
6 (2) (6-15-02, 11-15-02, 8-15-03, 7-15-05, (4-15-06 Editions), OAR 863-025-0025(3) (3-12-07,
7 4-13-07, 8-15-07, and (8-15-07 Editions), and OAR 863-025-0025(4) (11-14-08, 1-01-09, 6-15-
8 10, 4-15-11, 9-1-11, 9-14-12, 4-1-13 and 5-15-14 Editions), which requires a property manager
9 who receives security deposits on behalf of an owner to open and maintain a security deposits
10 account that is separate from the property manager's clients' trust account.

11 1.6 As of June 14, 2016, OREA records showed the following bank accounts
12 associated with PPM:

- 13 • "Mallard Investments Co.," ending in #0085, account type identified as rents/owner
14 funds, opened in October 11, 1996.
- 15 • "Mallard investments Co.," ending in #9163, account type identified as security
16 deposits, opened in May 1, 2015.
- 17 • "Shasta Park Joint Venture," ending in #2366, account type identified as rents/owner
18 funds, opened June 26, 2005.

19 **Violation:** By failing to use the required identifying language for clients' trust accounts
20 ending in #2366 named "Shasta Park Joint Venture," account ending in #0085 named, "Mallard
21 Investments Co.," and account ending in #9163 named, "Mallard Investments Co." for tenants
22 security deposits, Steele violated OAR 863-025-0025(1) (3-12-07, 8-15-07, 11-15-07, 11-14-
23 08, 11-14-08, 1-1-09, 6-15-10, 4-15-10, 9-1-11, 9-14-12, 4-1-13, 5-15-14, 6-16-16 Editions)
24 and OAR 863-025-0025(4) (5-15-14 and 6-16-16 Editions). OAR 863-025-0025(1) requires a
25 property manager to open and maintain at least one clients' trust account as defined in OAR
26 863-025-0010. Per OAR 863-025-0010, a clients' trust account means a bank account labeled
27 as "Clients' Trust Account," on all bank records and checks that is established and maintained
28 by a property manager. OAR 863-025-0025(4) requires a property manager who receives
29 security deposits on behalf of an owner to open and maintain a security deposits account as
30 defined in OAR 863-025-0010. Per OAR 863-025-0010, security deposits accounts must be

1 labeled as "Clients' Trust Account- Security Deposits," on all bank records and checks that is
2 established and maintained by a property manager.

3 1.7 As of July 14, 2016, OREA records showed the following bank accounts
4 associated with PPM:

- 5 • "Mallard Investment Co." ending in #9163, account type identified as security
6 deposits.
- 7 • "PPM," ending in #0376, account type identified as rents/owner funds (Steele
8 later identified #0376 as his business operating account and removed it from the
9 Agency records as a clients' trust account).
- 10 • "Beaver Investment" ending in #4945, account type identified as rents/owner
11 funds.

12 1.8 On August 19, 2016, OREA Investigator/Auditor Meghan Lewis (Lewis) informed
13 Steele of the required identifying language for clients' trust accounts and security deposits
14 accounts.

15 1.9 Per Steele, "Beaver Investments" ending in #4945 and was opened in January 1,
16 2016, without the correct identifying language.

17 **Violation:** By failing to include the proper identifying language on "Beaver Investments"
18 ending in #4945 Steele violated OAR 863-025-0025(2)(5-16-14 Edition). OAR 863-025-
19 0025(4) requires a property manager who receives security deposits on behalf of an owner to
20 open and maintain a security deposits account as defined in OAR 863-025-0010. Per OAR
21 863-025-0010, a security deposits account must be labeled as "Clients' Trust Account-
22 Security Deposits," on all bank records and checks that is established and maintained by a
23 property manager.

24 1.10 On June 30, 2015, Lewis requested tenant agreements and tenant ledgers for
25 Shasta Park, a single and multi-family residential community located in Eugene, Oregon, that
26 had been managed by Steele. Steele was unable to produce the tenant agreements or a
27 property management agreement for this property.

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1 **Violation:** By being unable to produce a copy of the property management agreement
2 for owner Shasta Park Joint Venture, and tenant agreements for Shasta Park, Steele violated
3 OAR 863-025-0035(1)(a) (e) (5-15-14 Edition), which states the property manager's records of
4 the management of rental real estate are "complete and adequate," as required under ORS
5 696.280, if the records contain at least the following: (a) a legible copy of each executed
6 property management agreement and any executed addenda or amendments to the
7 agreement, and a legible copy of each tenant agreement.

8 1.11 Lori Richardson (Richardson), an unlicensed individual, was hired by PPM in
9 2006 as an onsite property manager for Shasta Park. Richardson approved rental
10 applications, negotiated tenant agreements, and accepted rent and tenant security deposits.
11 When Richardson began employment with PPM, she signed a "Resident Manager
12 Employment Agreement," dated January 11, 2006, and worked under Steele's supervision.
13 Steele did not have a written, signed delegation of authority in place for Richardson to review,
14 approve and accept tenant rental agreements.

15 **Violation:** By failing to sign and date a written delegation of authority for Shasta Park
16 employee, Lori Richardson, Steel violated OAR 863-025-0015(6)(c) (3-12-07, 8-15-07, 11-15-
17 07, 11-14-08, 1-01-09, 6-15-10, 4-15-11, 9-1-11, 9-14-12, 4-1-13 and 5-15-14 Editions).

18 1.12 Lewis was able to obtain copies of some tenant agreements, for Shasta Park,
19 done by Steele, from the new property manager (who took over managing the property from
20 Steele) Shannon Shaffer (Shaffer), with Bunting Management Group, Inc. (Bunting). Lewis
21 reviewed the tenant agreements provided by Shaffer for Shasta Park. The box is checked
22 indicating that tenant security deposits are "held by owner." Steele told Lewis that the owners
23 never held the tenant security deposits and the tenant agreements were incorrect.

24 **Violations:** Tenant Agreements for Shasta Park, indicated the tenant security deposits
25 were "held by the owner," which was incorrect, because the owners never held the tenant
26 security deposits. By incorrectly completing the tenant agreements Steele demonstrated
27 incompetence in violation of ORS 696.301(12) (2013 and 2015 Editions).

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1 1.13 Lewis reviewed tenant ledgers for Shasta Park and identified the following details
2 were lacking:

3 For each receipt of funds:

- 4 • The purpose of the funds and identity of the person who tendered the funds
- 5 • The check number, cash receipt number or unique series of letters and/or
- 6 numbers that established an audit trail to the receipt of the funds and
- 7 • The date the funds were deposited.

8 **Violations:** Steele failed to ensure the tenant ledgers for Shasta Park contained the
9 required detail, in violation of OAR 863-025-0050(4)(d)(B)(C)(D) (5-15-14 Edition), which
10 states a tenant's ledger must contain at least the following information: (d) for each deposit of
11 funds: (B) the purpose of the funds and identity of the person who tendered the funds; and (C)
12 the check number, cash receipt number or a unique series of letters and/or numbers that
13 establishes an audit trail to the receipt of funds and (D) the date the funds were deposited.

14 1.14 Tenant agreements and tenant ledgers for Shasta Park indicated numerous
15 accounting inconsistencies in the collection of rental income and tenant security deposits,
16 where the amount of the tenant security deposit on the tenant agreement did not correspond to
17 the tenant ledger, the tenant security deposit was not shown on the tenant ledger, or the
18 amount of the tenant security deposit or rental income received did not satisfy the amount
19 charged, the latter resulting in multiple tenant rental income and security deposit balances due
20 the owner, Shasta Park Joint Venture. Multiple tenant ledgers show uncollected rent remained
21 in arrears for several consecutive months without corrective action. A sampling of five tenant
22 ledgers for Shasta Park showed a combined outstanding balance due the owner of \$5,957.33.

23 **Violation:** By failing to properly record/account for rent and security deposits, Steele
24 failed to exercise reasonable care and diligence, to account in a timely manner for all funds
25 received from or on behalf of the owner, to act in a fiduciary manner in all matters relating to
26 trust funds, and to be loyal to the owner by not taking action that is adverse or detrimental to
27 the owner's interest, in violation of ORS 696.890(4)(c)(d)(e)(f) (2015 Edition). Additionally,
28 Steele demonstrated incompetence in violation of ORS 696.301(12) (2015 Edition), which
29 states a licensee's license may be disciplined if they have demonstrated incompetence or
30 untrustworthiness in performing any act for which the licensee is required to hold a license.

1 1.15 A review of one of Steele's property management agreements stated the
2 following relating to compensation, "The agent shall be compensated for hourly time and for
3 expenses related to work performed outside the scope of property management, "with prior
4 written consent from a representative of the Owner or Jeff Elder."

5 1.16 Jeff Elder (Elder) was identified as a designated agent for the owner or as having
6 authority to provide written consent to Steele for hourly time and expenses related to work
7 outside the scope of property management for in several property management agreements,
8 including those for Trend Place and Rockwood Park.

9 1.17 Elder was never associated with PPM and was not aware of his authority, nor
10 had he ever authorized Steele's hourly time or expenses.

11 1.18 Steele explained when he first started in property management one of the
12 owners wanted Elder to be included in the property management agreement because Elder
13 had professional real estate experience. Steel stated he never requested written or verbal
14 authority for expenses from Elder.

15 1.19 Steele provided an Addendum which removed Elder from the PMA. The
16 Addendum was signed by Steele and Jeff Elder. It did not include signatures of any of the
17 owners who signed the original property management agreement.

18 **Violation:** By failing to have the owners sign the addendum for the property
19 management agreement for Trend Place and Rockwood Park, Steele violated OAR 863-025-
20 0020(4) (5-15-14 Edition), which states, any amendment or addendum to the property
21 management agreement must be in writing and include the identifying code, the date of the
22 amendment, signature of the property manager and the signatures of all owners who signed
23 the initial property management agreement.

24 1.20 May 2015 reconciliations for clients' trust accounts ending in #2366, #0085 and
25 #9163 (tenant security deposits account), had the following issues:

- 26 • The reconciliations did not balance,
- 27 • Supporting documentation was not generated to the date of the bank statement
28 (reconciliation for account ending in #2366), and indicated seriously aged
29 unreconciled entries dating back to 2005, and
- 30 • The single reconciliation form lacked an explanation of the difference and was
 either not signed or dated by Steele.

1 **Violation:** By failing to properly reconcile clients' trust accounts ending in #2366,
2 #0085, and #9163 (security deposits account), Steele violated OAR 863-025-0025(20) and
3 (21) (5-15-14 Edition), which requires a property manager to reconcile each clients' trust
4 account and security deposits account within 30 days of the bank statement, and the
5 reconciliation must contain three components, and the three components must be equal and
6 reconciled with each other. Within 30 days from the bank statement, the property manager
7 must complete the reconciliation document and sign and date it. Additionally, by failing to take
8 the necessary corrective action to resolve any adjustments, Steele violated OAR 863-025-
9 0025(22) (5-15-14 Edition), which requires the property manager to take corrective action to
10 resolve all adjustments made in a reconciliation prior to the next reconciliation or document the
11 good faith efforts the property manager has taken to resolve the adjustment.

12 1.21 July 2015 reconciliation documents for account ending in #9163 had the following
13 issues:

- 14 • The three required components did not balance, and
- 15 • Supporting documentation contained aged unreconciled entries and did not
16 correlate to the written explanation of the difference.

17 **Violation:** By failing to properly reconcile the security deposits account ending in #9163
18 for July 2015, Steele violated OAR 863-025-0025(21) (5-15-14 Edition) which requires a
19 property manager to reconcile each security deposits account within 30 calendar days of the
20 bank statement, the reconciliation requires three components. Per OAR 863-025-0025(21) the
21 balances of each component must be equal. Any adjustment must be clearly identified and
22 explained on the reconciliation document. Additionally, by failing to take the necessary
23 corrective action to resolve any adjustments, Steele violated OAR 863-025-0025(22) (5-15-14
24 Edition), which requires a property manager to take corrective action to resolve all
25 adjustments made in a reconciliation prior to the next reconciliation or document the good faith
26 efforts the property manager has taken to resolve the difference.

27 1.22 August 2015 reconciliation documents for accounts ending in #9163 (security
28 deposits account) and #0085 (clients' trust account) had the following issues:

- 29 • Supporting documentation did not appear to correlate to the bank statement,
30 check register, total of owner and security deposit ledger and reconciled balance
 as indicated on the single three way reconciliation form.

1 **Violation:** By failing to properly reconcile the security deposits account ending in #9163
2 for August 2015, and clients' trust account ending in #0085 Steele violated OAR 863-025-
3 0025(20) and (21) (5-15-14 Edition), which requires a property manager to reconcile each
4 clients' trust account and security deposits account within 30 calendar days of the bank
5 statement, the reconciliation requires three components. Per OAR 863-025-0025(20) and
6 (21), the balances of each component must be equal. Any adjustment must be clearly
7 identified and explained on the reconciliation document. Additionally, by failing to take the
8 necessary corrective action to resolve any adjustments, Steele violated OAR 863-025-
9 0025(22) (5-15-14 Edition), which requires a property manager to take corrective action to
10 resolve all adjustments made in a reconciliation prior to the next reconciliation or document the
11 good faith efforts the property manager has taken to resolve the difference.

12 1.23 On clients' trust account ending in #4945, named "Beaver Investments," property
13 owner Arthur Steele Jr., was a signer on the account.

14 **Violation:** By allowing property owner, Arthur Steele Jr., to be a signer on a clients'
15 trust account ending in #4945, Steele violated OAR 863-025-0025(9) (5-15-14 Edition), which
16 states a property manager may not allow an owner to be an authorized signor on a clients'
17 trust account or security deposit account and may not allow an owner to deposit, hold, or
18 disburse funds in a clients' trust account or security deposit account.

19 1.24 OREA records indicate for clients' trust accounts ending in #4945, #0085, #2366,
20 and #9163, Steele did not notify OREA within 10 days of opening or closing a clients' trust
21 account.

22 **Violation:** By failing to notify OREA within 10 days after the date of opening or closing
23 clients' trust accounts ending in #0085, #2366, #9163 and #4945 Steele violated ORS
24 696.241(4) and (6) (2015 Edition), which requires a property manager to notify the Agency
25 within 10 business days after the date a clients' trust account is opened or closed.

26 1.25 All of the above demonstrate incompetence in performing acts for which Steele is
27 required to hold a license.

28 **Violations:** ORS 696.301(28) (2001-2005 Editions) and ORS 696.301(12) (2007-
29 2015), states a licensee's license can be disciplined if they have demonstrated incompetence
30 or untrustworthiness in performing any act for which the licensee is required to hold a license.

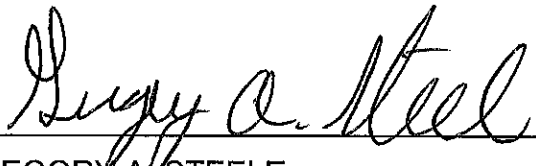
ORDER

IT IS HEREBY ORDERED that Steele's property manager license be, and hereby is, reprimanded.


IT IS FURTHER ORDERED that Steele complete the 27-hour Property Manager Advanced Practices Course (detailed in OAR 863-022-0022) no later than four (4) months from the effective date of this order. Steel must submit a certificate to OREA showing completion of the 27-hour Property Manager Advanced Practices Course. This certificate must be submitted to OREA no later than 10 days after the education has been completed.

IT IS SO STIPULATED:

IT IS SO ORDERED:



GREGORY A. STEELE



GENE BENTLEY

Date 4/25/17

Real Estate Commissioner
Date 5.1.17

Date of service: 5/1/2017

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of

5
6 SUSAN J. STOHL

7
8) STIPULATED FINAL ORDER
9

10 The Real Estate Agency (OREA) and Susan J. Stohl (Stohl) do hereby agree and
11 stipulate to the following:

12 FINDINGS OF FACT
13 &
14 CONCLUSIONS OF LAW

15 1.

16 1.1 At all times mentioned herein, Stohl was licensed as a broker with Windermere
17 Realty Group LLC.

18 1.2 On August 12, 2014, Stohl renewed her broker license. She answered "Yes" to
19 questions regarding criminal conviction and probation in the past 24 months. Stohl disclosed a
20 conviction for Theft 3 (see April 29, 2014 Incident below). OREA opened an investigation and
21 Stohl was issued an Educational Letter of Advice for failing to report the 2014 conviction to
22 OREA within 20 days of the conviction.

23 1.3 On August 22, 2016, Stohl renewed her broker license. She answered, "Yes," to
24 questions regarding criminal conviction and probation in the past 24 months. Stohl disclosed a
25 theft conviction that occurred in January 2016. OREA opened an investigation.

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1 April 29, 2014 Incident:

2 1.4 Loss Prevention Officer, Alex Lucy (Lucy) at Whole Foods (Tigard, OR)
3 witnessed Stohl putting groceries, including four bottles of wine, shrimp and other
4 miscellaneous items into a reusable shopping bag and exit the store without paying for them.
5 Tualatin Police were called and cited Stohl for Theft in the Second Degree. On May 28, 2014,
6 Stohl pled guilty of Theft in the Second Degree (Washington County Circuit Court Case No:
7 D141878M). She was sentenced to 18 months of probation, directed to have no contact with
8 any Whole Food Stores and issued a fine.

9 January 4, 2015 Incident:

10 1.5 On January 4, 2015, Stohl ate a salad at Whole Foods and didn't pay for it. Stohl
11 was detained, but not prosecuted. Stohl explained to OREA Compliance Specialist Denise
12 Lewis that she has an eating disorder that she is currently being treated for.

13 **Violation:** On January 4, 2015, Stohl was detained for Theft at Whole Foods, her
14 actions demonstrated dishonest conduct and violated ORS 696.301(14) (2015 Edition), which
15 states a licensee's real estate license may be subject to discipline if they have committed an
16 act of fraud or engaged in dishonest conduct substantially related to the fitness of the licensee
17 to conduct professional real estate activity, without regard to whether the act or conduct
18 occurred in the course of professional real estate activity.

19 January 23, 2016 Incident:

20 1.6 On January 23, 2016, Stohl was arrested for shoplifting magazines at Whole
21 Foods Market (Tigard, OR). Loss Prevention Officer, Spring Jackson (Jackson) observed
22 Stohl select two magazines from a display, fold them, place them in her purse and cover them
23 with a pair of gloves. Stohl approached the deli where she purchased some hot food and
24 made no attempt to pay for the magazines. She exited the store without paying for the
25 magazines and was stopped by Jackson.

26 1.7 A review of Jackson's loss prevention report dated January 23, 2016, stated,
27 "Stohl has been arrested on a previous occasion at store 10537 on 010415. Stohl was not
28 prosecuted and since this was her second documented theft it was decided to contact police."
29 (See January 4, 2015, Incident above).

30 ///

1 1.8 On February 5, 2016, Stohl was charged with Criminal Trespass in the First
2 Degree and Theft in the Third Degree. On April 4, 2016, Stohl pled guilty and was convicted of
3 Theft in the Third Degree (Circuit Court of the State of Oregon for Washington County, Case
4 No: D160474M). Stohl was sentenced to bench probation for 18 months and ordered to have
5 no contact, nor come within 100 yards of Whole Foods. Stohl was sentenced to 12 days in jail
6 and ordered to pay various fees and assessments.

7 1.9 On her August, 22, 2016, renewal Stohl notified OREA of the April 4, 2016
8 conviction.

9 **Violation:** On April 4, 2016, Stohl pled guilty and was convicted of Theft in the Third
10 Degree. By being convicted of Theft in the Third Degree, Stohl violated ORS 696.301(11)
11 (2015 Edition) which states a licensee's real estate license may be subject to discipline if they
12 have committed an act of fraud or engaged in dishonest conduct substantially related to the
13 fitness of the licensee to conduct professional real estate activity, without regard to whether the
14 act or conduct occurred in the course of professional real estate activity.

15 **Violation:** Stohl's actions relating to the January 23, 2016, theft and the subsequent
16 April 4, 2016, conviction demonstrate dishonest conduct, in violation of ORS 696.301(14)
17 (2015 Edition) which states a licensee's real estate license may be subject to discipline if they
18 have committed an act of fraud or engaged in dishonest conduct substantially related to the
19 fitness of the licensee to conduct professional real estate activity, without regard to whether the
20 act or conduct occurred in the course of professional real estate activity.

21 **Violation:** Stohl's actions relating to the January 23, 2016, theft and subsequent April 4,
22 2016, conviction demonstrated conduct below the standard of care for the practice of
23 professional real estate activity in Oregon as established by the community of individuals
24 engaged in the practice of professional real estate activity in Oregon, in violation of ORS
25 696.301(15) (2015 Edition).

26 **Violation:** By failing to notify the Commissioner of the April 4, 2016, criminal conviction,
27 within 20 days, Stohl violated ORS 696.301(3) as it incorporates OAR 863-015-0175(1)(a) and
28 (4) (5-15-14 Edition) which requires a licensee to notify the Commissioner in writing of any
29 criminal conviction within 20 calendar days after receiving written notification of an adverse
30 judgement.

1 1.10 Stohl provided some important background information during the investigation.
2 Stohl and her family moved from San Francisco in 2007. Her husband worked from home
3 trading stocks and she was a stay at home mom. When the economy crashed they lost
4 everything. They sold their house and have been renting since. Stohl's husband became
5 depressed and in 2010 her husband tried to commit suicide by shooting himself in the jaw, in
6 front of her. Stohl's husband recovered and has now returned to work doing commercial real
7 estate development.

8 1.11 Regarding her eating disorder, Stohl explained that she was previously on the
9 Oregon Medicaid plan and had only received limited care from counselors and a nurse
10 practitioner. Since August 2016, Stohl has been insured by Providence Health Plan and is
11 getting specialized care for her disorders. Stohl started a Partial Hospital eating disorder
12 program on January 16, 2017 through Providence. She attends on average eight to nine
13 hours of group therapy per day, six days a week. Stohl is also monitored by a staff
14 psychiatrist, dietician and individual therapist.

15 1.12 A letter from her counselor documented the correlation between the theft
16 incidents and her medical condition stating that, "Multiple published studies have shown a
17 direct correlation between the stealing of food and food based items with those of an active
18 eating disorder. Her current treatment program is addressing these issues."

19 1.13 The mitigating factors described in paragraphs 1.10-1.12 above, allowed OREA
20 to lower the license sanction from a revocation to a suspension followed by a limited license
21 with restrictions.

22 2.

23 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.
24 Based on these violations a suspension is appropriate under ORS 696.396(2)(c)(C).
25 According to ORS 696.396(2)(c)(C), OREA may suspend a real estate license if the material
26 facts establish a violation of a ground for discipline under ORS 696.301 that exhibits
27 dishonesty or fraudulent conduct.

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

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STIPULATION & WAIVER

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

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

ORDER

IT IS HEREBY ORDERED that Stohl's real estate license be suspended for a period of 90 days. The suspension will be effective as of the date of the order.

IT IS FURTHER ORDERED that at the conclusion of Stohl's suspension, Stohl be issued a real estate broker's license with limitations as set forth below:

- (a) The limited license period shall be for five (5) years;
- (b) Stohl will be supervised by a principal broker,
- (c) For the first two (2) years of the limited license:
 1. Stohl's principal broker will secure Stohl's lockbox access card and will not provide the card to Stohl.
 2. Stohl will be accompanied by another licensed real estate broker or principal broker on all visits (for listings, showings, meetings, etc) which occur at a residence or client's business.

1 (d) Following the initial 2 years of the limited license, Stohl and her principal broker,
2 can send a written request to have the requirements relating to the first two years
3 of the limited license (see section c above) removed. OREA would conduct an
4 inquiry as listed in section (5) below. If there have been no issues, Stohl could
5 have her lockbox access card back and would not be required to be
6 accompanied by another real estate broker or principal broker on all visits during
7 the remainder of the limited license term.


8 (e) The following terms apply to the entire duration of the five year limited license:
9 1. Stohl shall not be convicted of any felony or misdemeanor during the limited
10 license term;
11 2. Stohl shall not violate any license law or rule during the limited license term;
12 3. Stohl shall be required to give a copy of this Order to any principal broker
13 Stohl's license is associated with, prior to association, and the principal broker
14 shall acknowledge receiving a copy of this Order in writing to the OREA;
15 (4) The employing principal broker shall immediately notify the OREA of any
16 criminal convictions or license law violations by Stohl during the limited
17 license term, and
18 (5) The restrictions shall continue until Stohl (1) requests an unrestricted license,
19 in writing, and (2) Stohl's principal broker endorses Stohl for an unrestricted
20 license. OREA will conduct an inquiry on Stohl including but not limited to a
21 check through the Law Enforcement Data System. If OREA finds that there is
22 no reason to continue the limited license, an unrestricted license will be
23 issued.

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1 IT IS FURTHER ORDERED that, should Stohl violate any term or condition of this
2 Order, it may be a basis on which to revoke Stohl's license in accordance with ORS
3 696.301(13).

4 PRINCIPAL BROKER'S ACCEPTANCE

5 I hereby accept and agree to abide by the foregoing, and acknowledge that I have
6 received a copy of this Order on 4/5/17

7
8
9 
10 Employing Principal Broker's Signature
11 Print Name Joan P. Adler
12 License No 570300184
13

14
15 IT IS SO STIPULATED:

16
17 
18
19 SUSAN J. STOHL

20
21 Date 4/5/17
22

IT IS SO ORDERED:

23 
24
25 GENE BENTLEY

26 Real Estate Commissioner
27 Date 4.10.17
28

29 Date of Service: 4/10/2017
30

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of

5
6 JEFFRY ALLEN STILES

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STIPULATED FINAL ORDER

10 The Oregon Real Estate Agency (OREA) and Jeffry Allen Stiles do hereby agree and
11 stipulate to the following:

12 FINDINGS OF FACT
13 &
14 CONCLUSIONS OF LAW

15 1.

16 1.1 At all times mentioned herein, Jeffry Allen Stiles (Stiles) was licensed as a
17 property manager and doing business under the registered business name of Leeland
18 Property Management, LLC.

19 1.2 On July 28, 2014, property owner, Laurel Bishop (Bishop), notified Leeland
20 Property Management, LLC she was terminating her property management agreement.

21 1.3 Bishop notified Stiles, by email, on September 29, 2014, to forward the reserve
22 and security deposit funds to Nunamaker Property Management.

23 1.4 Bishop received the reserve and operating funds on November 14, 2014, but did
24 not receive the security funds.

25 1.5 January 5, 2015, Stiles audited Bishop's account, and determined Leeland
26 Property Management, LLC failed to forward Bishop's tenant's security deposit to Nunamaker
27 Property Management.

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1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of

5
6 DONALD G. WALLS

7)
8 STIPULATED FINAL ORDER
9

10 The Real Estate Agency (OREA) and Donald G. Walls (Walls) do hereby agree and
11 stipulate to the following:

12 FINDINGS OF FACT
13 &
14 CONCLUSIONS OF LAW

15 1.

16 1.1 At all times mentioned herein, Walls was licensed as a principal broker with
17 Hermiston Property Management.

18 1.2 In October 9, 2013, OREA initiated a random mail in clients' trust account audit
19 for Hermiston Property Management's clients' trust account ending in #2517 for the month of
20 August 2013. Numerous issues and deficiencies were identified in the audit. OREA
21 Compliance Specialist, Danette Rozell (Rozell) worked with Patty Looman (the employee
22 responsible for the bookkeeping and reconciliation) on correcting reconciliation issues. After
23 months of attempts to produce the required documents for the audit, Rozell contacted Walls.
24 On May 9, 2014, OREA opened and investigation.

25 1.3 Several deficiencies were identified during Walls' August 2013 clients' trust
26 account audit. Supporting documentation lacked the required detail, accounts were not being
27 reconciled three ways and the three required components did not balance. At the start of the
28 2014 investigation, it was found that some of the August 2013 non-compliant issues had not
29 been corrected.

30 ///

1 **Violation:** By failing to correct the noncompliance issues from the August 2013 audit for
2 clients' trust account ending in #2517, Walls demonstrated incompetence in violation of ORS
3 696.301(12) (2013 and 2015 Editions) which states a licensee's real estate license may be
4 disciplined if they have demonstrated incompetence or untrustworthiness in performing any act
5 for which the licensee is required to hold a license.

6 1.4 In July 2015 OREA Investigator/Auditor Frances Hlawatsch (Hlawatsch),
7 requested the most recent completed clients' trust account reconciliation from Looman.

8 1.5 Looman indicated she was still working on March 2015's reconciliation. Looman
9 agreed to provide the reconciliation for March 2015 no later than July 16, 2015. The
10 reconciliation was not provided by this date. Hlawatsch spoke with Walls on July 27, 2015, and
11 he was aware of the situation and Looman's failure to provide a current reconciliation. He went
12 on to explain that Looman's mother had passed away and she had taken time off to grieve.

13 **Violation:** By failing to complete a monthly reconciliation for clients' trust account
14 ending in #2517 , Walls violated OAR 863-025-0025(20)(a)(A)(B)(C) (5-15-2014 Edition) which
15 states a property manager must reconcile each clients' trust account within 30 days of the bank
16 statement and (a) the reconciliation must have the following three required components: (A) the
17 bank statement balance, adjusted for outstanding checks and other reconciling bank items; (B)
18 the balance of the record of receipts and disbursements or the check register as of the date of
19 the bank statement and; (C) the sum of all positive owners' ledgers as of the date of the bank
20 statement.

21 **Violation:** By failing to provide the March 2015 clients' trust account reconciliation for
22 account ending in #2517 by the requested date, Walls violated OAR 863-0035(2)(a)(c) (5-15-
23 2014 Edition), which states a property manager must produce records for inspection by the
24 Agency as follows: (a) when the Agency makes a request for production of property
25 management records, the property manager must provide such records within no less than five
26 banking days; and (c) failure to produce such records within the timelines stated in in
27 subsection (a) or (b) is a violation of ORS 696.301.

28 1.6 Looman was responsible for receiving and disbursing funds for the clients' trust
29 account and security deposits account, however there was no written delegation of authority
30 authorizing her to do so between October 2013 and December 14, 2015.

1 **Violation:** By failing to have written policies and a delegation of authority in place for
2 Looman between October 2013 and December 14, 2015, Walls violated OAR 863-025-
3 0015(1)(2)(3)(c)(5)(6)(b) (4-1-2013 and 5-15-2014 Editions) which states a property manager
4 must develop, maintain and follow written policies for persons and activities under this rule.
5 (2)Each policy must state the effective date of the policy. (3) Policies must specify duties,
6 responsibilities, supervision and authority, including the authority to handle funds in a clients'
7 trust account or security deposits account for: (c) an employee of the property manager. (5)
8 Policies must include provisions that specify the production and maintenance of all reports,
9 records and documents under this division. (6)The following delegation of authority to review
10 and approve reconciliations and disburse funds must be kept in writing, dated and signed by the
11 property manager: (b) Review and approve reconciliations and receive and disburse funds.

12 1.7 On December 15, 2015, Walls provided a written delegation of authority to OREA
13 for Looman, an unlicensed person, which gave Looman permission to negotiate and sign
14 property management agreements.

15 **Violation:** By delegating the task of negotiating and signing a property management
16 agreement to Looman, an unlicensed individual, Walls violated OAR 863-025-0020(6) (5-15-
17 2014 Edition) which states only a property manager may negotiate and property management
18 agreements, except that a principal real estate broker may delegate such authority to a real
19 estate licensee. Additionally, Walls violated ORS 696.315(1) (2013 and 2015 Editions) which
20 states a real estate licensee may not knowingly permit a non-licensed individual to engage in
21 professional real estate activity, with or on behalf of the licensee.

22 1.8 In July 2015, the most recent completed security deposits account reconciliation
23 for account ending in # 7712 was for April 2015.

24 **Violation:** By failing to reconcile the security deposits account ending in #7712 Walls
25 violated OAR 863-025-0025(21) (5-15-2014 Edition) which states a property manager must
26 reconcile each security deposits account within 30 calendar days of the date of the bank
27 statement.

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1 1.9 On August 3, 2015, Looman submitted the security deposit account reconciliation
2 for account ending in #7712. This included a reconciliation report and a copy of the June 2015
3 bank statement. No tenant ledger or check register reports were included. The adjusted cash
4 balance was reported at \$1,340.24 more than the ending balance of the bank statement.

5 **Violation:** By failing to properly reconcile the security deposits account ending in #7712
6 and provide the required supporting documentation, Walls violated OAR 863-025-
7 0025(21)(a)(b) (5-15-2014 Edition) which states a property manager must reconcile each
8 security deposits account within 30 calendar days of the bank statement date, and (a) it must
9 contain the three required components: the bank statement balance, the balance in the
10 records of receipts and disbursements or check register and the sum of all positive balances of
11 individual security deposits and fees; and (b) The balances of each component in this section
12 must be equal to and reconciled with each other.

13 1.10 On August 5, 2015, Looman submitted the clients' trust account reconciliation for
14 account ending #2517. Documents provided were a reconciliation report, the bank statement
15 and the individual owners' ledger. The owners' ledgers lacked the following required detail:
16 identifying codes, who deposits were received from, and deposit check numbers. According to
17 the reconciliation report, the account was out of balance with \$511.80 more in the bank than
18 what the records reported.

19 **Violation:** By failing to have the required supporting detail on the owners ledgers' Walls
20 violated OAR 863-025-0055(3)(a)(b)(B)(C) (5-15-2014 Edition) which states the owners' ledger
21 must contain at least the following information: (a) the owner's name and identifying code; (b)
22 for each deposit received: (B) the purpose and the funds and the identity of the person who
23 tendered them; (C) the check number or bank-generated tracking number.

24 By failing to properly account for all funds on the owners ledger, and failing to take
25 corrective action on the reconciliation Walls also violated OAR 863-025-0025(20)(b)(22) (5-15-
26 2014 Edition) which states a property manager must reconcile each clients' trust account
27 within 30 calendar days of the date of the bank statement and the balance of each component
28 must be equal to and reconciled with each other. Per OAR 863-022-0025(22), a property
29 manager must take corrective action to resolve all adjustments made in a reconciliation prior to
30 the next reconciliation or document the good faith efforts the property manager has taken to
resolve the adjustment.

1 1.11 On September 15, 2015, Walls called OREA to advise that the clients' trust
2 account had been accessed fraudulently. The fraud was discovered early on and the account
3 had to be shut down.

4 1.12 As of October 1, 2015, Looman was still working to reconcile the clients' trust
5 account from "July or August" 2015. Looman described the bank fraud that occurred as "really
6 inconvenient," stating that it caused a lot of extra work for her. In discussing the out of balance
7 June 2015 clients' trust account reconciliations Looman stated the clients' trust account had
8 not been in balance for a "very long time."

9 **Violation:** By failing to have the July and/or August 2015 reconciliations completed after
10 30 days from the bank statement, Walls violated OAR 863-025-0025(20)(d)(A)(B) (5-15-2014)
11 which requires a property manager to reconcile each clients' trust account within 30 days of
12 the date of the bank statement. (d) Within 30 calendar days from the date of the bank
13 statement the property manager must: (A) complete the reconciliation document and (B) sign
14 and date the reconciliation document, attesting to the accuracy of the document.

15 1.13 As of October 1, 2015, Looman was unable to identify what caused the June
16 2015 security deposits account reconciliation to be out of balance, she admitted she had not
17 investigated this difference.

18 1.14 Looman explained she had inherited historical errors from her predecessor. She
19 stated Walls was aware the accounts were out of balance and he had asked her to identify the
20 reason. She said she had been unable to do so.

21 **Violation:** By failing to properly balance the reconciliation and make the necessary
22 adjustments for the June 2015 security deposits reconciliation, Walls violated OAR 863-025-
23 0025(21)(b)(22) (5-15-2014 Edition) which requires a property manager to reconcile each
24 security deposits account within 30 calendar days of the bank statement date, and (b) the
25 balances of each required component must be equal and reconcile with each other. OAR 863-
26 025-0025(22) requires a property manager to take corrective action to resolve all adjustments
27 made in a reconciliation or document good faith efforts made to resolve the adjustment.

28 1.15 On November 17, 2015, Looman agreed to submit a properly reconciled account
29 for both trust accounts, along with supporting documents, for the month of October 2015, no
30 later than November 23, 2015. The reconciliation was not received by OREA on this date.

1 1.16 On December 2, 2015, a formal written request for documents was issued to
2 Walls. Walls responded to the demand on December 2, 2015, and indicated that Looman had
3 complied and submitted the documents to OREA on November 25, 2015. Walls included the
4 fax number Looman used, and it was apparent that a digit in the fax number had been
5 transposed.

6 1.17 On December 3, 2015, OREA received the reconciliation documents for the
7 clients' trust account.

8 **Violation:** By failing to produce the requested records by the given deadline, Walls
9 violated OAR 863-0025-0035(2)(a)(c) (5-15-2014 Edition) which states a property manager
10 must produce records for inspection by the Agency when the Agency makes a request for
11 production of property management records, within no less than five banking days. Failure to
12 produce such records within the timeline is a violation of ORS 696.301.

13 1.18 A review of the documentation submitted December 3, 2015, showed the
14 following: the clients' trust account reconciliation submitted on December 3, 2015, lacked
15 Walls' signature.

16 **Violation:** By failing to sign the reconciliation Walls violated OAR 863-025-
17 0025(20)(d)(B)(5-15-2014 Edition) which states (d) Within 30 calendar days from the date of
18 the bank statement the property manager must: (B) Sign and date the reconciliation document.

19 1.19 The reconciliation form was accompanied by an Appfolio reconciliation report, a
20 bank statement and individual owners' cash flow report. There was no reconciliation for the
21 security deposit account provided.

22 1.20 The October 2015 clients' trust account reconciliation documents submitted on
23 December 3, 2015, did not include a receipts and disbursements journal or check register.

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1 **Violation:** By failing to provide a receipts and disbursements record or a check register,
2 a required component of the trust account reconciliation, Walls violated OAR 863-025-
3 0025(20)(a)(B) (5-15-2014 Edition) which requires (a) a property manager to reconcile each
4 clients' trust account within 30 calendar days of the date of the bank statement and must
5 include: (B) the balance of the records of receipts and disbursements or the check register as
6 of the date of the bank statement. Additionally, Walls violated OAR 863-025-0040(1) (5-15-
7 2014) which states a property manager must prepare and maintain a chronological record of
8 receipts and disbursements or a check register for each clients' trust account and each
9 security deposits account in which the manager must record each receipt of funds and
10 disbursement of funds.

11 1.21 The October 2015 clients' trust account check register report submitted on
12 December 15, 2015, lacked required detail. There was no information about deposits
13 received into the account. The document also failed to display the purpose of disbursements
14 made, identifying codes, and it did not include a running balance.

15 **Violation:** By failing to include required identifying detail on the check register such as
16 date funds were received, amount of funds received, purpose of the funds and identity of
17 person tendering the funds, for each disbursement, the purpose, identifying code and account
18 balance after each entry, Walls violated OAR 863-025-0040(2)(a)(A)(B)(C)(b)(D)(c)(e) (5-15-
19 2014 Edition) which states a record of receipts and disbursements or check register must
20 contain the following: (a) for each receipt of funds: (A) the date the funds were received; (B)
21 the amount of funds received; (C) the purpose of the funds and identity of the person who
22 tendered the funds; (b) for each disbursement of funds: (D) the purpose of the disbursement;
23 (c) if there is more than one property in a clients' trust account each entry for a receipt;
24 deposit or disbursement must be identified with the applicable identifying code; and (e) the
25 account balance after each entry.

26 1.22. The October 2015 clients' trust account reconciliation submitted on December
27 15, 2015, included a general ledger intended to serve as a receipts and disbursement record.
28 This document lacked the following required detail: purpose of the funds and identity of the
29 person who tendered the funds.

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1 1.23 The owners' cash flow reports submitted in lieu of owners' ledgers did not contain
2 identifying codes or address information for the owners' properties. There was no detail
3 showing who payments were received from or any check numbers.

4 **Violation:** By failing to include the required identifying details on the owners' ledgers
5 such as the identifying code, the purpose of all funds received or check numbers, Walls
6 violated OAR 863-025-0055(3)(a)(b)(B)(C) (5-15-2014 Edition) which states (3) all owner
7 ledgers must contain the following: (a) the owner's name and identifying code; (b) for each
8 deposits of funds: (B) the purpose of the funds and identity of the person who tendered the
9 funds; and (C) the check number, cash receipt number, or a unique series of letters and/or
10 numbers that establish an audit trail of the receipt of funds.

11 1.24 The October 2015 clients' trust account reconciliation document indicated there
12 was \$11,524.68 on the bank statement and check register that was not accounted for on the
13 owners' ledger. No sufficient explanation was provided. The only explanations given
14 referenced the fraud that had occurred, had been corrected in September and that Looman,
15 "may have missed some outstanding checks." The notation stated they, "were going over
16 everything to check for any mistakes."

17 **Violation:** By failing to properly balance the reconciliation, and failing to clearly identify
18 and explain any needed adjustment, and failure to take proper corrective action Walls violated
19 OAR 863-025-0025(20)(b) (5-15-2014 Edition) which states the balances of the three
20 components of the reconciliation must be equal to and reconciled with each other. If any
21 adjustment is needed, the adjustment must be clearly identified and explained on the
22 reconciliation document. Additionally, Walls violated OAR 863-025-0025(22) (5-15-14) which
23 requires a property manager to take corrective action to resolve all adjustments made in a
24 reconciliation prior to the next reconciliation, or document good faith efforts the property
25 manager has taken to resolve the adjustment.

26 1.25 On December 10, 2015, Looman provided explanations for some of the issues
27 that were identified in the December 3, 2015 submission. No explanation was provided for
28 why outstanding checks may not have been accounted for.

29 **Violation:** By failing to properly account for outstanding checks Walls violated OAR
30 863-025-0025(20)(c) (5-15-2014 Edition) which states outstanding checks must be listed by
check number, issue date, payee and amount.

ORDER

IT IS HEREBY ORDERED that Walls' principal broker license be, and hereby is, reprimanded.

IT IS FURTHER ORDERED that Walls complete the 27-hour Property Manager Advanced Practices Course, (detailed in OAR 863-022-0022) no later than four (4) months from the effective date of this order. Walls must submit documentation, such as a certificate to OREA showing completion of the 27- hour Property Manager Advanced Practices course. The certificate showing completion must be submitted to OREA no later than 10 days after the education has been completed. (Walls has already complied with this requirement by submitting his course completion certificate for the 27-hour Property Manager Advanced Practices course completed on February 18, 2017).

IT IS SO STIPULATED:

IT IS SO ORDERED:





DONALD G. WALLS

GENE BENTLEY

Real Estate Commissioner

Date 5/24/2017

Date 6.2.17

Date of Service: 6/2/2017

1 **Violation:** By failing to account for and disburse the tenant's security deposit to Bishop
2 or to Bishop's new property manager within 60 days of termination of the property
3 management agreement, Stiles violated ORS 696.301(3) as it incorporates Oregon
4 Administrative Rule 863-025-0070(2)(b)(C) and (D), 5-15-14 Edition, which states that no later
5 than 60 days after the effective date of termination, the property manager must provide the
6 owner with: (C) an accounting of all security deposits and fees held for the tenants, and (D) all
7 tenant security deposits and fees held for tenants, unless the owner directs the property
8 manager, in writing, to transfer the security deposits and fees to another property manager,
9 escrow agent or person.

10 2.

11 2.1 OREA reserves the right to investigate and pursue additional complaints that
12 may be received in the future regarding this licensee.

13 STIPULATION & WAIVER

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

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

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ORDER

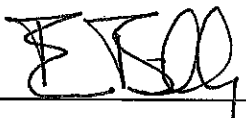
IT IS HEREBY ORDERED that Stiles' property manager license be reprimanded.

IT IS SO STIPULATED:

IT IS SO ORDERED:



JEFFRY ALLEN STILES



GENE BENTLEY

Real Estate Commissioner

Date 4/3/17

Date 4.10.17

Date of Service: 4/10/2017

1 REAL ESTATE AGENCY
2 BEFORE THE REAL ESTATE COMMISSIONER
3

4 In the Matter of the Real Estate License of)

5
6 LINDA WESTPHAL)

STIPULATED FINAL ORDER

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9
10 The Real Estate Agency (OREA) and Linda Westphal (Westphal) do hereby agree and
11 stipulate to the following:

12 FINDINGS OF FACT
13 &
14 CONCLUSIONS OF LAW

15 1.

16 1.1 At all times mentioned herein, Westphal was licensed as a principal broker with
17 Action Realty.

18 1.2 OREA received two different complaints regarding Westphal. For the first
19 complaint, OREA received a complaint from property owner Scott Landrey (Landrey), dated
20 July 15, 2015, alleging Westphal allowed permanent entry of a renter, without a contract, first
21 and last month's rent, or a security deposit. OREA opened an investigation.

22 1.3 The second complaint was forwarded from the Department of Justice from
23 property owner Nancy Harris (Harris).

24 **Investigation of Landrey's Complaint:**

25 1.4 Landrey and Westphal signed a property management agreement effective
26 August 23, 2012, for property located at 85289 Hwy, 101, Florence, Oregon (85289 Hwy 101).

27 1.5 In April 2014, 85289 Hwy 101 became vacant and Landrey listed it for sale.
28 When a sale didn't occur, Landrey agreed to rent his property again. Westphal learned of a
29 prospective tenant, Heather Thompson (Thompson) who planned to move from Alaska to
30 Florence, OR. Thompson agreed to rent 85289 Hwy 101 upon her arrival from Alaska.

1 1.6 On August 1, 2014, Thompson arrived in Florence, OR, and did not have a place
2 to stay. Westphal allowed Thompson to move into 85289 Hwy 101. At the time of move in
3 Westphal failed to have Thompson sign a tenant agreement, or collect rental income or a
4 security deposit from Thompson. Westphal told Thompson she could come back later that
5 week to pay and sign the lease.

6 **Violation:** By allowing tenant, Thompson, to move into 85289 Hwy 101 without first
7 signing a tenant agreement and paying rent and/or a security deposit, Westphal violated ORS
8 696.890(4)(c),(f) (2013 Edition) which states a property manager owes the property owner the
9 following affirmative duties: c) to exercise reasonable care and diligence; and f) to be loyal to
10 the owner by not taking action that is adverse or detrimental to the owner's interest.

11 1.7 Within a few days after Thompson moved in, Westphal received a call from
12 Thompson, expressing her interest to look for another rental property. She did not want to sign
13 a tenant agreement. Thompson paid rent of \$950.00 for August 2014, and had a partial
14 payment of \$415.00 toward the security deposit of \$1,000.00.

15 1.8 Over the next few weeks, a series of repairs major repairs were required on
16 85289 Hwy 101. On September 2, Westphal and Thompson negotiated a daily rate until
17 Thompson could move out. Landrey accepted the offer to receive a daily rate from Thompson,
18 and gave direction to Westphal, if Thompson changed her mind and decided to stay, he
19 wanted signed documents and the appropriate security deposit. If Thompson would not sign,
20 but pay, Landrey directed Westphal to serve Thompson a thirty day notice and to move
21 forward with an eviction.

22 1.9 On September 3, 2014, Landrey messaged Westphal the following, "So, it
23 sounds like the housing issue is adequate at this time. I take it that she will stay and pay daily
24 until she leaves. If she changes her mind again and wants to stay. I will need it all down on
25 paper, signed. With cash up front. First and last, damage deposit and dog deposit... if she will
26 not sign I want you to give her 30-day's notice if she pays. I want her to leave as soon as it is
27 legally ok to evict her."

28 1.10 On September 3, 2014, Westphal emailed Landrey, the following, "OK. I will take
29 care of it. If she doesn't pay I will give her [sic] 72-hour notice."

30 ///

1 1.11 By September 16, 2014, Thompson still occupied 85289 Hwy 101, had not
2 signed a tenant agreement and had not paid any rental income for the month of September
3 2014. As of September 16, 2014, Westphal had not served the seventy-two hour notice.

4 **Violation:** On September 3, 2014, Westphal wrote to Landrey, that she would give
5 Thompson a seventy two (72) hour notice to vacate if she did not pay. Westphal failed to issue
6 the notice, in violation of ORS 696.890(4)(a),(c) (2013 Edition) which states a property
7 manager owes the property owner the following affirmative duties: a) to deal honestly and in
8 good faith; and c) to exercise reasonable care and diligence. Additionally, Westphal created a
9 reasonable probability of damage or injury to a person by making one or more material
10 misrepresentations or false promises in a matter related to professional real estate activity, in
11 violation of ORS 696.301(1) (2013 Edition).

12 1.12 OREA Investigator/Auditor Meghan Lewis (Lewis) reviewed the owner ledger for
13 Landrey. The owner ledger dated January 1, 2014 through December 31, 2014, shows a
14 receipt of cash payments for \$950.00 on August 8, 2014. The transaction was noted as,
15 "Payment from Heather Thompson," and deposited on August 11, 2014. Missing from the
16 owner ledger entry was a lack of description for the purpose of the funds.

17 **Violation:** By failing to include a description of the purpose of the funds on the owner
18 ledger entry, Westphal violated OAR 863-025-0055(3)(b)(B) (5-15-14 Edition) which states all
19 owner ledgers must contain at least the following information: b) for each deposit of funds: B)
20 the purpose of the funds and the identity of the person who tendered the funds.

21 1.13 Further review of Landrey's owner ledger showed the following disbursements
22 causing negative balances:

- 23 • On August 6, 2014, a disbursement of \$29.49 caused a resulting balance of \$-
- 24 18.65, which remained negative until a deposit was made on August 11, 2014,
- 25 which brought the balance positive.
- 26 • On August 26, 2014, a disbursement of \$950.00 caused a resulting balance of -
- 27 \$18.65, which remained negative until a deposit of \$600.00 was made on
- 28 September 17, 2014 which brought the balance positive to \$581.35.

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1 **Violation:** By making or allowing disbursements to be made from Mr. Landrey's owner
2 ledger when there were insufficient funds to do so, Westfall violated OAR 863-025-0025(12)(5-
3 15-2014), which states a property manager must not disburse funds from a clients' trust
4 account or security deposit account unless there are sufficient funds, as defined in OAR 863-
5 025-0010, in the ledger account against which the disbursement is made.

6 **Investigation of Harris' Complaint:**

7 1.14 Harris and Westphal signed a property management agreement for Harris' 1977
8 manufactured home located at 89443 Shorecrest Drive, Florence OR (Shorecrest), effective
9 May 26, 2004. During the term of the property management agreement, which was
10 approximately ten years, multiple renters resided in Shorecrest.

11 1.15 In 2012, Mary and Nathanael Bossen (Bossen) contacted Harris directly about
12 purchasing Shorecrest. Harris agreed to give Bossens time to qualify for a loan to purchase
13 the property. Harris agreed to \$500.00 a month for rent and a \$3,000.00 non-refundable
14 deposit to be held as part of the purchase option. Westphal signed a month to month rental
15 agreement, dated March 2, 2012, with the Bossens for which she collected a ten percent
16 management fee.

17 1.16 An email thread dated May 10, 2012, forwarded from Harris to Westphal
18 indicates Bossen discovered mold in a bedroom and a soft spot in the roof over the bedroom.
19 Bossen stated she would continue to clean with a bleach solution and purchase a mold killing
20 primer and paint the rooms in the summer.

21 1.17 Around February 2014, Bossen notified Harris of a broken board on the porch.
22 Westphal's handyman, Kevin Hughes (Hughes) made the repair and Harris claimed at that
23 time Hughes informed Westphal Shorecrest was "trashed" with dog urine and feces, food
24 everywhere, piles of dirt and clothes and an unbearable stench inside and out.

25 1.18 Westphal explained to Lewis during the investigation she didn't check on the
26 house because she assumed Bossens would be buying Shorecrest. She said often Bossens
27 would contact Harris directly and she wouldn't be informed of repairs or problems.

28 ///

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1 1.19 Bossens rented from Harris for two years, but ultimately were unable to purchase
2 Shorecrest. The final rent payment was received March 3, 2014. When Westphal surveyed
3 Shorecrest, she found it to be in poor condition.

4 1.20 Westphal requested funds for the removal of debris and cleanup from Harris,
5 since all deposit funds had been sent to Harris.

6 1.21 In April 2014, Harris sent Westphal \$500.00 for repairs.

7 1.22 In an email dated May 8, 2014, Westphal wrote, "Ali brought me the keys this
8 morning and we have arranged for the outside power washing. I have already arranged for a
9 cleaning crew and hopefully it will be done by next week. I will take care of getting the mobile
10 back to the condition before Mary moved in. I will pay for it now and go after Mary for payment
11 and any money I collect from her will be applied to these cleaning/damage issues."

12 1.23 A review of Harris' owner ledger, showed no additional receipts or disbursements
13 for repairs or maintenance occurred between April 22, 2014, and October 27, 2014.

14 1.24 Harris sent Westphal \$1,000.00 which showed to be received October 28, 2014
15 to be used for repairs. Another \$1,000.00 was sent to Westphal to pay for roofing materials
16 which was received January 6, 2015, but was returned for non-sufficient funds.

17 1.25 Per Westphal, during clean up and painting, her handyman Kevin Hughes
18 climbed on the roof and removed parts of the roof to discover water damage. Westphal did not
19 want Hughes to do work beyond his scope but it appeared to be a small leak easily fixed with
20 plywood and they wanted to do the repair as affordable to Harris as possible.

21 1.26 In December 2014, Westphal claimed to have purchased materials at her own
22 expense. Westphal told Lewis her handyman, Hughes covered the roof with a tarp. Sometime
23 around March 2015, Harris communicated directly with Hughes about the roof repairs.

24 1.27 Harris ordered some lumber to be delivered to Shorecrest for repairs. Harris
25 contacted Hughes to ask about the progress of repairs and learned from Hughes that his car
26 had broken down and he hadn't been able to get back to Shorecrest to complete the repairs.
27 Harris alleged Hughes told her that he left Shorecrest's roof exposed.

28 1.28 Shorecrest was vacant from April 2014 through March 2015, when Westphal
29 terminated the property management agreement by written notice dated March 13, 2015.

30 ///

1 1.29 In March 2015, Harris contacted another property management company to
2 check on Shorecrest. James Booth, a property management assistant with Dolphin Property
3 Management, obtained keys from Westphal and went to inspect Shorecrest with the intent to
4 manage Harris' rental real estate. Booth described Shorecrest as having the roof torn up and
5 a tarp (which didn't cover the entire roof) had left the interior exposed. Booth said there was
6 water damage throughout the interior and the insulation was falling apart. Booth stated
7 Shorecrest was completely ruined and there was nothing left to manage.

8 1.30 A licensed contractor was contacted to give an estimate and opinion of the
9 property, he submitted an estimate to Harris, which stated based on his professional opinion
10 the structure was a complete loss, and the repair estimate would be in excess of \$60,000.00.

11 **Violation:** By failing to check on the condition of Harris' rental during the Bossen
12 tenancy and failing to ensure further damage to the property didn't occur until the property
13 management agreement was terminated, Westphal violated ORS 696.890(4)(a),(c) (2013
14 Edition) which states a property manager owes the property owner the following affirmative
15 duties: a) to deal honestly and in good faith; and c) to exercise reasonable care and diligence.

16 1.31 A review of Harris' owner ledger indicates the following instances where
17 disbursements were made when there were insufficient funds to do so:

- 18 • On April 14, 2014, a disbursement of \$75.00 caused the resulting balance to be -
19 \$35.00 until April 15, 2014.
- 20 • On October 8, 2014, a disbursement of \$24.21 caused the resulting balance to
21 be \$-23.13 until October 28, 2014.

22 **Violation:** By making disbursements from Harris' owner ledger when there were
23 insufficient funds to do so, Westphal violated OAR 863-025-0025(12) (4-1-13, 5-15-14
24 editions), which states a property manager must not disburse funds from a clients' trust
25 account or security deposits account unless there are sufficient funds, as defined in OAR 863-
26 025-0010, in the ledger account against which the disbursement is made.

27 1.32 As of February 17, 2016, Harris' owner ledger had ending balance of \$15.58 that
28 had not been disbursed to Harris after the property management agreement was terminated in
29 March 2014.

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ORDER

IT IS HEREBY ORDERED that Westphal's principal broker license be, and hereby is reprimanded.

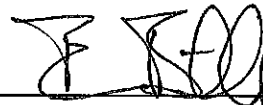
IT IS FURTHER ORDERED that Westphal complete the 27- hour Property Manager Advanced Practices Course, (detailed in OAR 863-022-0022) no later than four (4) months from the effective date of this order. Westphal must submit documentation, such as a certificate to OREA showing completion of the 27- hour Property Management Advanced Practices course. The certificate showing completion must be submitted to OREA no later than 10 days after the education has been completed.

IT IS SO STIPULATED:

IT IS SO ORDERED:



LINDA A. WESTPHAL



GENE BENTLEY

Real Estate Commissioner

Date 6.9.2017

Date 6.13.17

Date of Service: 6/13/2017

1
2 REAL ESTATE AGENCY
3 BEFORE THE REAL ESTATE COMMISSIONER

4 In the Matter of the Unlicensed Professional
5 Real Estate Activity of
6
7 DAN LEE BERREY
8

STIPULATED FINAL ORDER AND ORDER
TO CEASE AND DESIST

9
10 The Oregon Real Estate Agency (OREA) and Dan Lee Berrey (Berrey) do hereby agree
11 and stipulate to the following:

12 FINDINGS OF FACT
13 &
14 CONCLUSIONS OF LAW
15 1.

16 1.1 On July 1, 2015, OREA received a complaint alleging Berrey was advertising a
17 property for lease and continued to operate his real estate website, Commercial Concepts,
18 Inc.(CCI), without having an active real estate license to do so.

19 1.2 Berrey's principal broker license was revoked by OREA on June 17, 2015. After
20 Berry's license was revoked, there was no remaining principal broker licensee associated with
21 Commercial Concepts, Inc.

22 1.3 On August 5, 2015, OREA Investigator/Auditor Jeremy Brooks (Brooks) reviewed
23 CCI's website (the company that Berrey did professional real estate activity under prior to his
24 license revocation). As of August 5, 2015, the CCI website (www.commercialconceptsinc.net)
25 showed a picture of Berrey on the home page and described the company as, "Independently
26 owned and operated by Dan Berrey (CCIM, Designated Broker)." The webpage describes
27 services offered to clients including leasing and consulting, asset management and project
28 development.

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1 Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily
2 waive my rights to a hearing, to representation by legal counsel at such a hearing, and to
3 judicial review of this matter.

4 I hereby agree and stipulate to the above findings of fact and conclusions of law and
5 understand that the order which follows hereafter may be completed and signed by the Real
6 Estate Commissioner or may be rejected by the Real Estate Commissioner.

7
8 ORDER

9 IT IS HEREBY ORDERED that, pursuant to ORS 696.397, Berrey immediately cease
10 and desist from engaging in any professional real estate activity as defined in ORS
11 696.010(14)(a) to (n) (2015 Edition). The Commissioner's authority for this order is under ORS
12 696.397.

13 IT IS FURTHER ORDERED that, pursuant to ORS 696.990 and based upon the
14 violation set forth above, Berrey pay a civil penalty in the sum of \$1,100.00, said penalty to be
15 paid to the General Fund of the State Treasury by paying the same to OREA.

16 IT IS SO STIPULATED:

17 IT IS SO ORDERED:

18
19 

20 DAN LEE BERREY

21
22 Date 3/20/17

18
19 

20 GENE BENTLEY

21 Real Estate Commissioner

22 Date 3.29.17

23
24 Date of service: 3/29/2017

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REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Unlicensed Professional
Real Estate Activity of
LAWRENCE WILLIAM HITCHCOCK

STIPULATED FINAL ORDER

The Oregon Real Estate Agency (OREA) and Lawrence William Hitchcock (Hitchcock) do hereby agree and stipulate to the following:

FINDINGS OF FACT
&
CONCLUSIONS OF LAW

1.

1.1 On December 7, 2015, OREA issued a real estate broker license to Hitchcock.

1.2 On July 13, 2015, OREA received a complaint from Dennis Kelly alleging Hitchcock engaged in unlicensed professional real estate activity.

1.3 OREA opened an investigation and determined that Hitchcock engaged in professional real estate activity prior to obtaining his real estate broker license.

1.4 On July 9, 2015, Hitchcock arrived at a property listed by Windermere Stellar, located at 8428 SE 17th Street, Portland 97202, to show the property to some clients. Hitchcock told the seller he had an appointment and wanted to show the property, but did not have access the lockbox key. The seller let Hitchcock and his clients into the house. At the time, Hitchcock did not hold an active broker license.

Violation: By convincing the seller to allow himself access to show the house to his two clients, and subsequently showing the house to the two clients, Hitchcock performed professional real estate activity without a license, Hitchcock violated ORS 696.020(2) (2015 Edition), which states an individual may not engage in, carry on, advertise or purport to engage in or carry on professional real estate activity, or act in the capacity of a real estate licensee, within this state unless the individual holds an active license.

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ORDER

IT IS HEREBY ORDERED that, pursuant to ORS 696.990 and based upon the violations set forth above, Hitchcock pay a civil penalty in the sum of \$750.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to OREA.

IT IS SO STIPULATED:

IT IS SO ORDERED:



LAWRENCE WILLIAM HITCHCOCK

GENE BENTLEY

Real Estate Commissioner

Date 5.29.2017

Date 6.1.17

Date of Service: 6/1/2017

**REAL ESTATE BOARD
REGULATION DIVISION REPORT
August 7, 2016**

Regulation Division Manager: Selina Barnes
Compliance Specialists 3 (Compliance Coordinator): Deanna Hewitt, Rob Pierce
Financial Investigators (Investigator-Auditor): Jeremy Brooks, Aaron Grimes,
 Frances Hlawatsch, Philip Johnson, Meghan Lewis, Lisa Montellano, Lindsey Nunes
Compliance Specialist 2: Carolyn Kalb
Compliance Specialists 1: Sue Davenhill, Denise Lewis, Danette Rozell
Administrative Specialist: Janae Weston

Division Overview

The Regulation Division receives complaints and determines validity and assignment for investigation. Investigators gather facts (from interviews and documents), prepare a detailed written report and submit to the Manager for review. The Manager determines whether the evidence supports charging a person with a violation of Agency statutes or administrative rules, as well the appropriate resolution. The Manager conducts settlement conferences to resolve cases without a contested case hearing. If a hearing is requested, the investigator works with the Assistant Attorney General in preparing for and presenting the case at hearing.

The Compliance Specialists are responsible for conducting: mail-in audits of licensee's clients' trust accounts (CTA), expired activity investigations, background checks and self-administered compliance reviews. They also respond to inquiries regarding regulations and filing complaints from the public, licensees, and other governmental agencies.

Workload and Activity Indicators

Current Cases In Below Status	Average 2016	Average Q1 & Q2 2017	7/19/17
Mail-in CTA Audits	45	55	48
Renewal Investigation	7	4	2
Background Check Investigation	9	9	11
Complaint	33	22	10
Investigation (& Pending Assignment to Investigator)	73	74	68
Admin Review	28	31	31
Settlement Process	38	39	29
Pending Admin Action	13	10	12
Hearing	5	3	3
Appeal	9	9	9

Selina Barnes will be presenting the "Tips for Staying Out of Trouble with the Agency" following this board meeting.

For information on investigations resulting in administrative actions, please review the "Administrative Actions Summary" section of the Board packet.

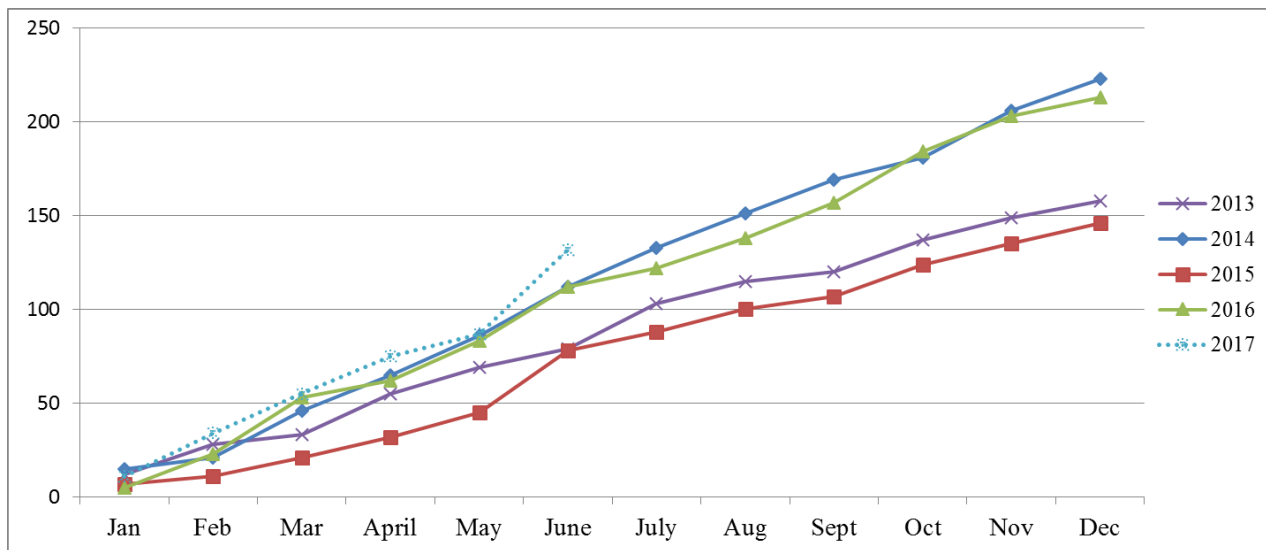
**Report to the Real Estate Board
Land Development Division
7 August 2017**

Division Manager: Michael Hanifin

Section Overview:

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

Workload and Activity Indicators



Filing activity through the end of June remains higher than we've seen in at least the last six years. We are also seeing a slight uptick in the amount of condo conversions, due in large part to the condominiumization of homes in the Portland area that have an ADU. The majority of filings continue to be condominiums, with timeshares being the second largest type of filing by volume.

Current Projects

Our current focus is supporting the revisions to agency rules resulting from passage of SB's 67 and 68.

Rulemaking Activities

The Agency is currently engaged in rulemaking. Due to the large number of rules affected, the decision was made to split the rulemaking into two parallel (primary and secondary) rulemaking processes. The primary rulemaking is in response to passage of SB's 67 and 68 and contains substantive changes as well as some incidental cleanup to the affected rules. The secondary rulemaking is a body of clerical housekeeping changes that are being made to provide consistency, update references to statutes and rules, and remove stale language regarding future (now past) effective dates of changes to rules. Splitting the process shortened the primary rulemaking draft by 100 pages and will save the advisory committee significant time in review. We were able to split the rulemaking process this way because rules which receive exclusively clerical non-substantive changes do not require advisory committee participation or a hearing.

2017 Rulemaking Roadmap

SB 67 and 68 are effective on January 1st, therefore the Agency's primary rulemaking effort must also be effective on January 1st. In order to ensure we have an effective date of January 1st, the Agency is following the timeline below, which complies with statutory requirements for notice and hearing and contains sufficient buffers to ensure full compliance with statutory deadlines.

The Agency has assembled an advisory committee and provided the members a draft of the proposed changes for their review and comment. The Agency is meeting with the advisory committee on August 3rd to walk through the draft rules and address any questions.

The Agency will use the remainder of the month of August to finalize the draft rules. As soon as complete the draft rules will be sent to the Oregon Real Estate Board, but no later than September 15th, for consideration at the board meeting on October 2nd.

After receiving comment from the Board, the Agency will file notice with the Administrative Rule Unit (ARU). The ARU is in the process of implementing a new web interface for digital filing of rules changes. We haven't had a chance to examine that interface or how it works, so we're not certain how long it will take to input the proposed rules changes into the website, but our target date for filing notice is October 5th. In order to ensure publication of notice in the November 1st issue of the Oregon Bulletin we will file no later than October 15th.

The Agency will hold a hearing on the primary rules changes on Wednesday, November 15th. This is the first day that the Agency may have a hearing, as ORS 183.335 requires that any hearing occur *no earlier than 14 days after publication* in the Oregon Bulletin. The public comment period will close on the day of the hearing. The Agency will consider any testimony and comment given before finalizing the draft rules and filing the new permanent rules with the ARU.

In addition to publication in the Oregon Bulletin, there are three groups that the Agency must provide notice to prior to the effective date of a rulemaking activity. The first group are those stakeholder groups identified in Agency rule, the second group are those on the Agency

notification mailing list, and the third are those members of the legislature identified in ORS 133.335. The first two groups require 28 days notice prior to effective date, and members of the legislature require 49 days notice prior to the effective date. For the sake of simplicity, all three groups are tentatively slated to receive notice on Friday, November 3rd, but in no circumstance later than November 13th.

Status of Agency Legislation

SB 67 - Housekeeping Measure

Status: SB 67 was signed by Governor Brown on July 6th. Assigned to Chapter 234, 2017 Laws. Effective date of January 1st, 2018.

Summary: SB 67 makes technical fixes to Chapter 696, including updates to language and references and reorganization of some material for readability. The measure also removes the requirement that a principal real estate broker or real estate broker create a client trust account when they act as a courier by taking a check made out to the seller or lessor from a purchaser or lessee for the purpose of conveying same to the seller or lessor. This measure also provides that a licensed real estate property manager may not solicit a potential tenant unless they have a written property management agreement with the lessor.

SB 68 – OREA Fee Increase

Status: Signed by Governor Brown on June 31st and assigned to Chapter 193, 2017 Laws. Effective date of January 1st, 2018.

Summary: This bill updates fees paid to the Agency for professional licenses and other associated fees. It is linked to Policy Option Package 101.

HB 5037 - Governor's Recommended Budget

Status: Signed by Governor Brown on May 15th and assigned to Chapter 59, 2017 Laws. Effective date of July 1st, 2017.

Summary: The budget bill provides the biannual spending limitation for the Real Estate Agency. The effective date is July 1, 2017.

**REAL ESTATE BOARD
ADMINISTRATIVE SERVICES DIVISION REPORT
August 7, 2017**

Administrative Services Manager: Anna Higley
Communications Coordinator: Mesheal Heyman
Accountant: Caty Karayel
Systems Administrator: Tiffani Miller
Program Analyst: Rus Putintsev

Customer Service Manager: Madeline Alvarado
Compliance Specialist: Tami Schemmel
Licensing Specialist: Nenah Darville
Receptionist: Liz Hayes

Section Overview

The Administrative Services Division acts as support to the Agency as well as the first point of contact for the public. This division manages budget, accounting, purchasing and contracting, inventory control, facilities, payroll, special projects, information technology (IT), reception, licensing services, communications and education.

Staffing

The Agency has hired a temporary student worker. His main function with the Agency has been to manage the mailing campaign to update the key contact of all registered business names in preparation for the annual renewal starting in January 2018. This project and temporary appointment will conclude on August 25th.

Budget Update

The 15-17 biennium ended on June 30, 2017. The Agency closed the biennium with **\$6.5 million** in revenue and **\$6.8 million** in expenses, leaving an ending balance of **\$735,841**. For the 2017-19 biennium projected expenses are at **\$7.83 million** and revenue is **\$7.89 million**. Expenses are up from the previous biennium by \$1.05 million. Approximately \$790,000 of this increase is due to the Agency operating at full staffing levels for the first time in several years. The remaining increase is based on statewide services charges. Revenue projection for 2017-19 has increased over the previous biennium by \$1.3 million from licensing related fee increases passed in Senate Bill 68, going in to effect January 1, 2018.

Education

The Agency has just completed the first pre-license education course renewal cycle online. Providers no longer complete a paper renewal for submission by mail. This process improvement provides efficiency gains for both the provider and the Agency, including storing all of the data and supplemental materials directly into the database. This is especially helpful for reporting and document access.

The Agency has also moved the annual post-license course renewals from June to December. Continuing Education Providers renew in December and this consolidates their efforts by conducting all renewal efforts in a single annual transaction. This is also more streamline for the Agency licensing system and administrative support.

The Agency conducts monthly random audits of continuing education. The most recent audit for April 2017 renewers produced a 97% compliance rate.

The Agency has started the development of the Law and Rule Required Course outline for 2018-19 and seeks input from the board.

Licensing

Licensing services include assisting real estate brokers, principal brokers, property managers and escrow agencies as they manage their licenses using eLicense, assisting customers as they process registered business names and branch office registrations in eLicense, registering membership campground

contract brokers, completing license applicant criminal background check investigations, processing escrow licensing and security/bonding files, maintaining all licensing history records, electronic processing of fees, and providing general reception services.

Customer service remains a priority for the Agency. In May the Agency answered 1898 calls with an average wait time of 17 seconds, 92% of calls were answered within 30 seconds. In June the Agency answered 1874 calls with an average wait time of 18 seconds, 90% of calls were answered within 30 seconds. The Agency is continuing to monitor monthly and daily volume cycles and staff in response to peak periods.

Licensing Statistics

Total Licensee Counts by Month:

Individuals (Persons)	May-17	Jun-17
Broker – Total	14,613	14,734
Active	12,986	13,117
Inactive	1,627	1,617
Principal Broker - Total	6,420	6,426
Active	6,036	6,055
Inactive	384	371
ALL BROKERS Total	21,033	21,160
Active	19,022	19,172
Inactive	2,011	1,988
Property Manager - Total	899	907
Active	824	823
Inactive	75	84
MCC Salesperson	27	23
MCC Broker	2	2
TOTAL INDIVIDUALS	21,961	22,092
Active	19,875	20,020
Inactive	2,086	2,072
Facilities (Companies)		
REMO	6	6
Registered Business Name (RBN)	3,386	3,392
Registered Branch Office (RBO)	735	731
Escrow Organization	48	47
Escrow Branch	147	143
PBLN	636	631
PMLN	150	148
CEP	301	302
MCC Operator	25	25
TOTAL FACILITIES	5,434	5,425
TOTAL INDIVIDUALS & FACILITIES	27,395	27,517

New Licenses by Month:

Individuals (Persons)	May-17	Jun-17
Broker	178	229
Principal Broker	15	13
TOTAL BROKERS	193	242
Property Manager	15	9
MCC Salesperson	0	0
MCC Broker	0	0
TOTAL INDIVIDUALS	208	251
Facilities (Companies)		
Continuing Education Provider (CEP)	3	1
REMO	0	0
Registered Business Name	28	23
Registered Branch Office	8	6
PBLN	6	4
PMLN	4	2
Escrow Organization	1	0
Escrow Branch	0	0
MCC Operator	0	0
TOTAL FACILITIES	46	35
TOTAL INDIVIDUALS & FACILITIES	257	287

Exam Statistics

June 2017 Total
ALL LICENSING EXAMS 539

Broker	451
Property Manager	16
Principal Broker	64
Reactivation	8

Pass Rates

<u>First Time Pass Rate</u> <u>Percentage</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Broker State	65	72	69	64	62
Broker National	77	78	78	74	73
Principal Broker State	46	61	62	59	55
Principal Broker National	86	86	78	75	74
Property Manager	55	61	59	64	69