



Oregon

Kate Brown, Governor

AGENDA ITEM NO.

I.C.

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

Notice of Agency

OREGON REAL ESTATE BOARD

Regular Meeting Agenda – Videoconference (Zoom)

October 3, 2022

I. BOARD BUSINESS - Chair Ihnat

- A. Call to Order
- B. Chair Ihnat comments/Roll Call
- C. Approval of the Agenda and Order of Business
- D. Approval of 08.01.22, regular meeting minutes
- E. Date of the Next Meeting: 12.05.22 to begin at 10am, Location TBD

II. PUBLIC COMMENT - Chair Ihnat

- 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 Ihnat. Waiver request log.

- A. None

IV. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER - Chair Ihnat.

- A. Carl Salvo

V. BOARD ADVICE/ACTION - Commissioner Strode

VI. NEW BUSINESS - Commissioner Strode

- A. Workday & Multifactor Authentication – Mesheal Heyman

VII. COMMUNICATIONS - ADMINISTRATIVE ACTIONS SUMMARY - Chair Ihnat

VIII. REPORTS - Chair Ihnat

- A. Commissioner Strode
- B. Agency division reports-Deputy Commissioner Higley
 1. Regulations, Elli Kataura
 2. Land Development Division, Michael Hanifin
 3. Administrative Services, Mesheal Heyman
 4. Licensing and Education, Maddy Alvarado
 5. Compliance Division, Liz Hayes

IX. ANNOUNCEMENTS - Chair Ihnat. Next board meeting: 12.5.22 to begin at 10am, Location TBD

X. ADJOURNMENT – Chair Ihnat

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



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OREGON REAL ESTATE BOARD Regular Meeting Minutes – Via Zoom

August 1, 2022

BOARD MEMBERS PRESENT:

Jose Gonzalez
Marie Due
Kim Hedding
LaTasha Beal
Alex MacLean
Pat Ihnet
Michael Warren
Lawnae Hunter (arrived at 10am)
Susan Glen

BOARD MEMBERS ABSENT:

OREA STAFF PRESENT:

Steve Strode, Commissioner
Anna Higley, Deputy Commissioner
Elli Kataura, Regulation Division Manager
Liz Hayes, Compliance Division Lead
Madeline Alvarado, Licensing & Education Division Manager
Mesheal Heyman, Administrative Services Division Manager
Michael Hanifin, Land Development Manager

I. BOARD BUSINESS - Chair Ihnat

- A. Call to Order
- B. Chair Ihnat comments/Roll Call
- C. Approval of the Agenda and Order of Business

**MOTION TO APPROVE 08.01.2022 REGULAR MEETING AGENDA AS SUBMITTED BY KIM HEDDINGER
SECONDED BY MARIE DUE
MOTION CARRIED BY UNANIMOUS VOTE**

- D. Approval of 06.06.22, regular meeting minutes

**MOTION TO APPROVE 08.01.2022 REGULAR MEETING MINUTES AS SUBMITTED BY KIM HEDDINGER
SECONDED BY MARIE DUE
MOTION CARRIED BY UNANIMOUS VOTE**

- E. Date of the Next Meeting: 10.01.22 to begin at 10am, Zoom

II. PUBLIC COMMENT - Chair Ihnat

- 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.
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- If no one wishes to comment, the next scheduled agenda item will be considered.

III. REQUESTS FOR WAIVERS - Chair Ihnat. Waiver request log.

- A. None

IV. PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER - Chair Ihnat.

- A. Precision Capital

**MOTION TO APPROVE PRECISION CAPITAL BY KIM HEDDINGER
SECONDED BY MARIE DUE
MOTION CARRIES WITH UNANIMOUS VOTE**

V. BOARD ADVICE/ACTION - Commissioner Strode

- A. Elect new Vice Chair

**MOTION TO APPROVE JOSE GONZALEZ BY ALEX MACLEAN
SECONDED BY KIM HEDDINGER
MOTION CARRIES WITH UNANIMOUS VOTE**



Oregon

Kate Brown, Governor

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530 Center St. NE, Suite 100
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Phone: (503) 378-4170
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OREGON REAL ESTATE BOARD
Regular Meeting Minutes – Via Zoom
August 1, 2022

- VI. NEW BUSINESS - Commissioner Strode**
- VII. COMMUNICATIONS - ADMINISTRATIVE ACTIONS SUMMARY - Chair Ihnat**
- VIII. REPORTS - Chair Ihnat**
 - A. Commissioner Strode
 - B. Agency division reports-Deputy Commissioner Higley
 - 1. Regulations, Elli Kataura
 - 2. Land Development Division, Michael Hanifin
 - 3. Administrative Services, Mesheal Heyman
 - 4. Licensing and Education, Maddy Alvarado
 - 5. Compliance Division, Liz Hayes
- IX. ANNOUNCEMENTS - Chair Ihnat.** Next board meeting: 10.3.22 to begin at 10am, Videoconference
- X. ADJOURNMENT – Chair Ihnat**



PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER

Rev. 3/2022

Real Estate Agency
530 Center St. NE Ste. 100
Salem OR 97301
Phone: (503) 378-4170

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@rea.oregon.gov 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.
Please do not submit any class or course information as the Oregon Real Estate Agency Board is not able to review or consider this information.

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

PETITIONER

Name Carl W Salvo Phone Number (541) 749-0749
Physical Address 360 SW Bond Street Address Cont. Suite # 410
City Bend State OR Zip Code 97702 County Deschutes
E-mail carl@midoregonlending.com
Mailing Address (if different) Address Cont.
City State Zip Code County

AUTHORIZED CONTACT PERSON





Prefix Mr. First Name Carl Last Name Salvo
Phone Number (541) 749-0749 E-mail carl@midoregonlending.com
Indicate who will appear before the board on behalf of the Petitioner: Carl Salvo (if Required?)

AGENCY USE ONLY

Approved by Board YES NO
Review Date

PETITION TO QUALIFY AS A CONTINUING EDUCATION PROVIDER, Continued

AUTHORIZATION AND ATTESTATION
<ul style="list-style-type: none"> 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 certify 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.

I UNDERSTAND:			
	Initials	Date Completed	Agency Use Only
I will complete the Continuing Education Provider Application and will pay the \$300 fee upon Board approval.			
I understand the requirements of an education provider as outlined in Oregon Administrative Rules (OAR) Chapter 863, Division 20.			
Petitioner has demonstrated their experience and expertise in two or more course topics eligible for continuing education credit as listed in OAR 863-020-0035.			
Petitioner has demonstrated their experience in providing educational courses to real estate licensees.			

Carl W Salvo

Date: 09/12/2022

Printed Name of Authorized Individual


9/12/2022
DocuSigned by: Carl Salvo
D5080437F9A541E...

Signature of Authorized Individual

Reset
Print Form



360 SW Bond Street, Suite 410
Bend, Oregon 97702
Phone: 541-728-0390 Fax: 541-728-0395

September 9, 2022

To whom it may concern.

I politely request your consideration for approving my application/petition to renew my certification certified Provider and Instructor for Continuing Education for Licensed Real Estate Agents. The bulk of the classes I will instruct will focus on Real Estate Finance but if renewed, I would also more than likely offer additional education on Real Estate Appraisal, Taxation, and Economic/Mortgage market trends and updates as these areas of education work in lockstep with my position as a Finance provider.

My primary motivation in applying to become a CE provider/Instructor is to bridge the knowledge gap as much as possible between my colleagues in Real Estate, and the Lending Industry. Since the bulk of today's homebuyers are financing their homes, the more Realtors understand the nuances and processes we encounter in an ever changing lending environment, the better served their buyers will be and it is ultimately the consumer who will benefit by those realtors whose industry knowledge goes beyond their jobs as agents.

I currently own and operate one of the few remaining fully independent Mortgage Brokerages in Oregon which provides a broad range of exposure to various product lines, lending platforms and virtually every loan product available on the market. It is critical for realtors to understand and keep tabs on the myriad of product lines available and what it takes to get their buyers qualified for financing, and being a fully independent broker precludes any bias or preference for any particular lending source or product line.

Additionally, we are beginning to see the re-emergence of Non-Qualified Mortgage (non-QM) products re-enter the market and these mortgage products come with a wide array of guidelines and limitations realtors should be aware of.

This past August marked my 25th year in the lending industry, primarily as a mortgage broker but for roughly 5 years I worked in Wholesale Lending before I opened my own company in 2007. My resume is also attached for your review

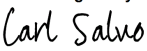
Working in Wholesale lending, first as an account rep and last as a branch manager, gave me a unique insight into how the secondary markets operate from MBS trading to underwriting and product development. This experience—cut

short by the financial crisis in 2007/08—gave me the opportunity to very literally learn the industry from top to bottom.

After the mortgage meltdown began over a decade ago, the local mortgage and Real Estate industry in Central Oregon suffered immensely and I began teaching CE Classes at the request of several local firms to gain an understanding of what occurred behind the crisis. John L Scott, ReMax, Steve Scott Realtors, Total Property Resources, and a handful of other local offices were appreciative of the education and I sincerely look forward to continuing to assist my business partners in real estate moving forward.

Please do not hesitate to reach out to me directly to discuss my qualifications or intentions for becoming an approved provider and instructor at any time.

Regards,

DocuSigned by:
 9/9/2022
D5080437F9A541E...

Carl Salvo
NMLS ID # 281716
President, Mid Oregon Lending, Inc.

Carl Wayne Salvo
59745 Calgary Loop
Bend, OR 97702

EMPLOYMENT HISTORY

September 2007 to Present: President, Mid Oregon Lending, Inc, Bend, Oregon

Own and operate a full service Mortgage Brokerage specializing in conventional first and second liens.

September 2009 to September 2010, Vice President, Central Oregon Chapter of Oregon Association of Mortgage Professionals (OAMP), President elect, September 2011

June 2007 to September 2007: Branch Manager, MortgageIT Inc, Oregon

Manage all aspects of operations, production, sales, and quality control for Portland and Bend, Oregon Wholesale Lending Division Offices and manage a team of 42 employees. Responsible for policy and procedure development and implementation in all departments, branch profitability and delivery of closed loans, all hiring and termination of staff, and autonomous management of all aspects of daily operations.

- Top Producing Branch nationally in August 2007
- Fastest turn times on delivery of closed loans to servicing in region
- Consistently one of the most profitable branches in the country

August 2006 to May 2007: Area Sales Manager, MortgageIT Inc, Oregon

Responsible for all aspects of management of a sales team of 15 Account Executives in Oregon, including recruitment, training and retention, product roll out, annual reviews, monthly meetings, pipeline management, and goal setting. Required to establish and enforce acceptable levels of production for account executives through intensive in field training and evaluation, teaching marketing skills, mentoring, and report to regional management monthly. Set individual and branch goals for production and carefully scrutinized account executive performance to identify areas of needed improvement and further training. Also worked daily with other department heads to develop continuity and cohesion between departments.

- Grew Sales Team from 9 to 16 Account Executives during tenure as ASM
- Retained 100% of AE's, including 2 MortgageIT Presidents Club members
- Developed Field Training and mentoring programs to increase AE productivity
- Created and implemented broker trainings, marketing events, and team building exercises
- Managed pipelines monthly of approximately \$115 Million with 68% pull through and evaluated AE's on basis of production, pull through, and performance
- Consistently maintained highest Pull Through in region
- Responsible for roll out and training of "Closed Loan Purchase" platform to Account Executives

October 2004 to August 2006: Account Executive, MortgageIT Inc, Bend, Oregon

Responsible for solicitation and retention of customers for MortgageIT wholesale lending division In Central and Southern Oregon in a highly competitive and dynamic market. Position required mastery of all aspects of retail loan origination, account management, underwriting guidelines, product pricing and placement.

- 2005 Presidents Club Winner, #18 nationally in closed units
- 2005 Production of 1189 closed units for \$233.3 Million
- YTD ranked #13 nationally in closed units prior to promotion to ASM
- Established funding and pull through records that have never been beaten in Oregon
- Manage a pipeline averaging 30 Million Monthly

- Recruit and assist in training fellow employees
- Assist in management duties of satellite office
- Recruited and developed account list of 62 brokers

October 2003 to September 2004: Account Executive, Umpqua Bank Wholesale, Bend, Oregon

Responsible for recruiting and retaining Umpqua Bank Wholesale Mortgage customers in Central and Southern Oregon and facilitated the submission and closing of customer's loans. Position required mastery of numerous program guidelines, pipeline management, acting as a correspondent liaison with delegated lenders and worked proactively with management on product development and process refinement.

- Top producer 4 out of 10 months while in operation
- Doubled the number of active accounts in territory
- Increased average monthly closings in territory from 2.5 million per month to 5.8 million per month

November 2002 to October 2003, and August 1998 to February 2002: Loan officer, Strategic Mortgage Services, Bend, Oregon

Responsible for originating and closing all varieties of conventional and sub prime real estate loans in an extremely volatile and competitive real estate market.

- Closed 15.8 Million in volume last year in business
- Developed 98% referral driven business from real estate agents, past clients, and business advocates
- Mastery of FNMA and FHLMC and sub prime loan guidelines

March 2002 to October 2002: Account Executive, Cendant Corporation, Oakland, California

Responsible for promoting and implementing corporate owned "Phone in, Move in" mortgage service within Coldwell Banker, Century 21 and ERA Real Estate offices in the Bay Area.

- Called on 32 real estate office with an estimated 360 real estate agents
- Increased leads production in territory 38% in eight months with company
- Generated new accounts with program roll outs, and managed existing accounts over a large and diverse sales territory
- Reported weekly to regional sales manager and monitored sales goals
- Managed pipeline of 40 to 120 loans and worked with a team of originators and processors to meet time sensitive deadlines

March 1996 to July 1998: Account Executive, KICE Radio, Bend, Oregon

Responsible for generating and maintaining radio advertising accounts while managing all aspects of campaign development, copy writing, and follow up with clients to monitor advertising success.

- Top producing account executive, 1995, 1996
- Expanded number of active clients 62% from date of hire to departure

April 1995 to February 1996: Account Executive, KUIK Radio, Hillsboro, Oregon

Prospected for new accounts and developed new radio advertising customers in a major metropolitan area.

EDUCATION

May 1994: Bachelor of Arts, Carroll College, Helena, Montana

Major: English/Writing	Cumulative GPA:	3.20
Minor: Biology and Chemistry	GPA in Major:	3.58

- Carroll College Honors Scholar, 1991 thru 1993
- Staff Sports Writer, Carroll College *Prospector*

ADMINISTRATIVE ACTIONS

VII

Reported

7/12/22 through 9/6/22

REVOCATIONS

Paz, John-Curtis (Sandy), Property Manager 201218387, Final Order by Default dated July 29, 2022, issuing a revocation and a \$500.00 civil penalty.

SUSPENSIONS

None

REPRIMANDS

Harmon, Patricia A (Oakridge), Principal Broker 911000165, Final Order by Default dated July 14, 2022, issuing a reprimand.

Papenheim, Gerald T (Redmond), Principal Broker 201231397, Stipulated Final Order dated August 1, 2022, issuing a reprimand.

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

Elder, Ashley Hope (Eugene), Broker 201215485, Stipulated Final Order dated August 1, 2022, issuing a \$2,600.00 civil penalty.

Zika III, Joseph John (Redmond), Broker 201201063, Stipulated Final Order dated August 25, 2022, issuing a \$600.00 civil penalty.

Unlicensed Activity

Beall, Jack (Bend), Unlicensed, Stipulated Final Order dated August 25, 2022, issuing a \$100.00 civil penalty.

Escrow

None

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REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Unlicensed Professional
Real Estate Activity of
JACK BEALL

STIPULATED FINAL ORDER AND ORDER
TO CEASE AND DESIST

The Oregon Real Estate Agency (Agency) and Jack Beall (Beall) do hereby agree and stipulate to the following:

FINDINGS OF FACT, STATEMENTS OF LAW
AND
CONCLUSIONS OF LAW

1.

In establishing the violations set forth herein, the Agency may rely on one or more of the definitions contained in ORS 696.010.

First Findings of Fact:

1.1 At all times mentioned herein, Beall was not licensed to conduct professional real estate activity in Oregon.

1.2 On December 1, 2020, Lester Friedman (Friedman) filed a complaint with the Agency against fsboHandshake.com. The Agency opened an investigation.

1.3 Neither fsboHandshake (FSBOH) nor fsboHandshake.com were registered with the Oregon Secretary of State Corporation. However, Handshake, LLC was registered with Timothy Hix (Hix) listed as the Registered Agent. Tim Hix is the founder of FSBOH.

1.4 FSBOH is not a registered business name with the Agency and Hix does not hold an Oregon real estate license.

1.5 Beall worked for FSBOH and part of his duties was running the company's Facebook and Instagram pages.

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1 1.6 A search done on January 27, 2021, showed on FSBOH's Facebook page, "Real
2 Estate Agent" listed underneath the name of the company. Additionally, in the "About" section
3 it states, "We ensure For Sale By Owner transaction succeed. We provide professional and
4 personal support, plus online negotiation, custom sales contracts, all required documents and
5 closing task management. Sellers pay just \$2,000 with NO commission fees. Join us."

6 1.7 A search done on March 8, 2021 of FSBOH's website, www.fsbohandshake.com,
7 states the company provides the following services:

8 "fsboHandshake provides the guidance and platform for sellers and buyers to complete
9 real estate transactions on their own. All buyers and sellers receive personal guidance
10 from our staff of For Sale By Owner experts. fsboHandshake lets you make or receive
11 offers, negotiate, communicate quickly, and close the transaction. We'll guide you
12 through the entire process from start to finish. You'll receive a personalized dashboard,
13 online negotiations, offer management, a customized contract, the tracking of all tasks
14 and deadlines, and the fsboHandshake team supporting you during the entire process."

15 1.8 At the Economic Development of Central Oregon's May 2019 Pub Talk, Hix
16 explained that FSBOH offers all the legal paperwork necessary to complete the transaction
17 and provided a step-by-step guide. Per Hix, FSBOH does not offer advice on sales price or
18 assist with advertising the house for sale. However, once buyer and seller agree on the terms,
19 FSBOH will send the executed contract to Escrow and the FSBOH fee is paid only when the
20 transaction closes.

21 1.9 On November 16, 2020, Friedman received an email from Beall with the subject
22 line "fsboHandshake Resources." The email was from jack@fsbohandshake.com and stated in
23 part:

24 "You can make it easier for buyers to submit an offer in 3 easy steps:

- 25 1. Create your property profile at www.fsboHandshake.com in minutes
- 26 2. Receive your personalized weblink
- 27 3. Share your link with potential buyers to receive offers

28 fsboHandshake provides professional support to you and your buyer.

29 We allow your buyers to feel confident purchasing a For Sale by Owner home without
30 an agent.

1 Once you receive the weblink, you can add the highlighted section below to your Zillow
2 listing:

3 'Buyers without agents, will receive free support and service from fsboHandshake, an
4 independent For Sale By Owner company. Visit fsboHandshake.com to learn more or
5 click on the following link to make an offer on this home, **LINK GOES HERE**. If you do
6 have a Buyer's Agent or would like to know more about this property, please contact me
7 directly at (xxx) xxx-xxxx.'

8 Unlike real estate agents, we don't believe in real estate commissions or exclusivity
9 agreements. When you successfully close with fsboHandshake, we'll collect a flat fee
10 of \$2,000 through escrow. Nothing is due upfront. You only pay us if you close using
11 fsboHandshake.

12 Get a quick glimpse of how it works here.

13 Let me know if you have any questions! I look forward to working with you and your
14 buyer."

15 1.10 The signature block contained Beall's name and the fsboHandshake company
16 name.

17 1.11 Further review of the links provided in Beall's November 16, 2020, email to
18 Friedman indicate fsboHandshake was assisting in the closing of transactions.

19 1.12 On September 8, 2019, Sean and Christy Gmeiner (Gmeiners) listed their home
20 for sale using Zillow to advertise. The following was noted in the remarks, "Welcome to
21 Redmond, OR! This home is being sold by owner. Buyers may use fsbohandshake.com to
22 make & complete the purchase. In an effort to pass savings on to a buyer no real estate
23 agents please."

24 1.13 On September 27, 2019, the Gmeiners accepted an offer from Madison Munson.
25 The purchase and sale agreement was prepared on a FSBOH sales agreement and both
26 parties signed using DocuSign.

27 1.14 On September 28, 2019, Marissa Donnelly, a Project Manager with
28 fsboHandshake sent a copy of the purchase and sales agreement for 3575 SW Pumice Ave. in
29 Redmond, Oregon, to AmeiTitle. Noting that fsboHandshake was serving as the transaction
30 coordinator for the sale of the property. Donnelly's email stated in part, "Providing you with

1 the Purchase and Sales Agreement along with this email should serve as a request to provide
2 the preliminary Title report to the buyers. The buyers will deliver earnest money by EOD
3 9/30/2019."

4 1.15 As a result of facilitating this closing, fsboHandshake received a fee of \$1,500 at
5 closing for services rendered.

6 **First Statement of Law:** ORS 696.020(2) states an individual may not engage in, carry
7 on, advertise or purport to engage in or carry on professional real estate activity, or act in the
8 capacity of a real estate licensee, within this state unless the individual holds an active license
9 as provided for in this chapter. ORS 696.010(17)(j) and (k) (2019 Edition) defines
10 "Professional real estate activity" as: any of the following actions, when engaged in for another
11 and for compensation or with the intention or in the expectation or upon the promise of
12 receiving or collecting compensation, by any person who: (j) assists or directs in the procuring
13 of prospects, calculated to result in the sale, exchange, leasing or rental of real estate; (k)
14 assists or directs in the negotiation or closing of any transaction calculated or intended to result
15 in the sale, exchange, leasing or rental of real estate. ORS 696.010(6) (2019 Edition) defines
16 "compensation as: valuable consideration for services rendered or to be rendered, whether
17 contingent or otherwise. ORS 696.010(19) (2019 Edition) defines "real estate" as: includes
18 leaseholds and licenses to use including, but not limited to, timeshare estates and timeshare
19 licenses as defined in ORS 94.803, as well as any and every interest or estate in real property,
20 whether corporeal or incorporeal, whether freehold or nonfreehold, whether held separately or
21 in common with others and whether the real property is situated in this state or elsewhere.

22 ORS 696.990(4)(a) and (b) states: (4) Any person that violates ORS 696.020(2) may be
23 required by the Real Estate Commissioner to forfeit and pay to the General Fund of the State
24 Treasury a civil penalty in an amount determined by the commissioner of:

25 (a) Not less than \$100 nor more than \$500 for the first offense of unlicensed professional real
26 estate activity; and (b) Not less than \$500 nor more than \$1,000 for the second and
27 subsequent offenses of unlicensed professional real estate activity.

28 ORS 696.397 states if the Agency has reason to believe that a person has engaged, is
29 engaging or is about to engage in a violation of ORS 696.020(2) the Agency may, issue an
30 order directing a person to cease and desist from the violation or threatened violation.

1 Hearing, to representation by legal counsel at such a Hearing, and to judicial review of this
2 matter.

3 I hereby agree and stipulate to the above Findings of Fact and Conclusions of Law and
4 understand that the Order which follows hereafter, which I have also read and understand,
5 may be completed and signed by the Real Estate Commissioner or may be rejected by the
6 Real Estate Commissioner. I further understand that, in accordance with the provisions of
7 ORS 696.445(3), notice of this Order shall be published in the Oregon Real Estate News
8 Journal.

9 In addition to all of the above, I agree that once the Commissioner executes this
10 Stipulated Final Order, I will accept service of the Stipulated Final Order by email, and hereby
11 waive the right to challenge the validity of service.


12 ORDER

13 IT IS HEREBY ORDERED that, pursuant to ORS 696.397, Beall immediately cease and
14 desist from engaging in any professional real estate activity as defined in ORS 696.010(17)(a)
15 to (n) (2021 Edition) unless Beall first obtains a real estate license from the Agency. The
16 Commissioner's authority for this order is under ORS 696.397.

17 IT IS FURTHER ORDERED that, pursuant to ORS 696.990 and based upon the
18 violation set forth above, Beall pay a civil penalty in the sum of \$100, said penalty to be paid to
19 the General Fund of the State Treasury by paying the same to the Agency.

20
21 IT IS SO STIPULATED:

IT IS SO ORDERED:

22
23 
24 _____
25 JACK BEALL

DocuSigned by:

E2C2D0097AD8471...
26 STEVEN STRODE
Real Estate Commissioner



27 Date 8/22/2022

28 Date 8/25/2022 | 8:11 AM PDT

29 Date of Service: 08/25/2022

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Broker License
of
ASHLEY HOPE ELDER

STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Ashley Hope Elder (Elder) do hereby agree and stipulate to the following:

FINDINGS OF FACT, STATEMENTS OF LAW
AND
CONCLUSIONS OF LAW

1.

In establishing the violations set forth herein, the Agency may rely on one or more of the definitions contained in ORS 696.010.

Findings of Fact:

1.1 Elder was licensed as a broker working under the registered business name of Evans, Elder, Brown & Seubert, Inc.

1.2 On July 1, 2021, the Agency sent a renewal notification to Elder stating her license would expire at the end of July. On July 26, 2021, the Agency sent another notification to Elder regarding the upcoming license expiration.

1.3 On August 1, 2021, Elder’s broker license expired. That same day, the Agency sent an email to Elder stating the license had expired and included a warning not to conduct professional real estate activity.

1.4 On February 16, 2022, Elder submitted a renewal application. In response to one of the questions, Elder indicated she had conducted professional real estate activity during the time her license was expired. The Agency opened an investigation.

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1 1.5 Elder stated she thought her license would be active through July 2022 and
2 wouldn't be up for renewal until July 31, 2022.

3 1.6 Elder's license expired on August 1, 2021, and was not renewed until February
4 16, 2022. During the time Elder's license was expired, August 1, 2021, to February 15, 2022,
5 199 days, Elder continued conducting professional real estate activity as if actively licensed.

6 **Statements of Law:**

7 ORS 696.020(2) states an individual may not engage in, carry on, advertise or purport
8 to engage in or carry on professional real estate activity, or act in the capacity of a real estate
9 licensee, within this state unless the individual holds an active license as provided for in this
10 chapter.

11 ORS 696.990(4)(a) and (b) states: (4) Any person that violates ORS 696.020(2) may be
12 required by the Real Estate Commissioner to forfeit and pay to the General Fund of the State
13 Treasury a civil penalty in an amount determined by the commissioner of:

14 (a) Not less than \$100 nor more than \$500 for the first offense of unlicensed professional real
15 estate activity; and (b) Not less than \$500 nor more than \$1,000 for the second and
16 subsequent offenses of unlicensed professional real estate activity.

17 ORS 696.990(9) states for the purposes of subsection (4) of this section, any violation
18 of ORS 696.020(2) that results from a failure of a real estate licensee to renew a license within
19 the time allowed by law constitutes a single offense of unlicensed professional real estate
20 activity for each 30-day period after expiration of the license during which the individual
21 engages in professional real estate activity. A civil penalty imposed for a violation of ORS
22 696.020(2) that results from a failure of a real estate licensee to renew a license within the time
23 allowed by law is not subject to the minimum dollar amounts specified in subsection (4) of this
24 section.

25 **Conclusion of Law:**

26 By conducting professional real estate activity over the course of 199 days after Elder's
27 license expired and before renewing it, Elder violated ORS 696.020(2) and is subject to
28 discipline or civil penalty pursuant to ORS 696.990(4) and (9).

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2.

According to ORS 696.775, the lapsing, expiration, revocation or suspension of a real estate license, whether by operation of law, order of the Real Estate Commissioner or decision of a court of law, or the inactive status of the license, or voluntary surrender of the license by the real estate licensee does not deprive the commissioner of jurisdiction to: (1) proceed with an investigation of the licensee; (2) conduct disciplinary proceedings relating to the licensee; (3) Take action against a licensee, including assessment of a civil penalty against the licensee for a violation of ORS 696.020(2); or (4) revise or render null and void an order suspending or revoking a license.

3.

The Agency reserves the right to investigate and pursue additional complaints that may be received in the future regarding this licensee.

4.

STIPULATION AND WAIVER

I, Ashley Hope Elder, have read and reviewed this Stipulated Final Order and its Findings of Fact, Statements of Law and Conclusions of Law. I understand that the Findings of Fact, Conclusions of Law and this Stipulation and Waiver of Hearing rights embody the full and complete agreement and stipulation between the Agency 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. I also understand that any Hearing would be 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. By signing this Stipulated Final Order 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, which I have also read and understand, may be completed and signed by the Real Estate Commissioner or may be rejected by the Real Estate Commissioner.

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1 I further understand that, in accordance with the provisions of ORS 696.445(3), notice of
2 this Order shall be published in the Oregon Real Estate News Journal.

3 In addition to all of the above, I agree that once the Commissioner executes this
4 Stipulated Final Order, I will accept service of the Stipulated Final Order by email, and hereby
5 waive the right to challenge the validity of service.

6 ORDER

7 IT IS HEREBY ORDERED that pursuant to ORS 696.990(1) to (9) and based upon the
8 violation set forth above, Elder pay a civil penalty in the sum of \$ 2,600.00, said penalty to be
9 paid to the General Fund of the State Treasury by paying the same to the Agency. The civil
10 penalty is computed in accordance with ORS 696.990(4) and (9) in that each 30-day period of
11 unlicensed activity is considered one violation. In this instance, there were six 30-day periods
12 of unlicensed activity.

13
14 IT IS SO STIPULATED:

IT IS SO ORDERED:

15
16 DocuSigned by:
17 *Ashley Elder*
18 _____
A2FD1B7314A344A...
ASHLEY HOPE ELDER

DocuSigned by:
Steven Strode

E2C2D0097AD8471...
STEVEN STRODE



19
20 Date 7/19/2022 | 12:45 PM PDT

Real Estate Commissioner
Date 8/1/2022 | 7:42 AM PDT

Date of Service: 08/01/2022

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of

PATRICIA A. HARMON



FINAL ORDER BY DEFAULT

PROCEDURAL HISTORY AND PROCEDURAL LAW

1.

1.1 On May 18, 2022, the Real Estate Commissioner issued, by certified mail, a *Notice of Intent to Reprimand* the principal broker license of Patricia A. Harmon (Harmon). The Oregon Real Estate Agency (Agency) sent the *Notice of Intent* to Harmon’s last known address of record with the Agency (PO Box 642, Oakridge, OR 97463). The *Notice of Intent* was also mailed to Harmon by regular first-class mail to the above address in a handwritten envelope. And *The Notice of Intent* was emailed to Harmon at her email address of record.

1.2 The email was not returned as undeliverable. And per DocuSign Certificate of Completion, the document was viewed by Harmon at 3:05 PM on May 19, 2022.

1.3 On May 26, 2022, the return receipt was returned to the Agency for the certified mailing. The return receipt showed the *Notice* was received and signed for by LuAnn Harmon. Neither the certified mailing nor the first-class mailing have been returned to the Agency. Over twenty days (20 days) have elapsed since the mailing of the notice issued in this matter and no written request for hearing has been received by the Agency.

2.

Based upon the foregoing, and upon the Agency’s investigation reports, documents and files that, pursuant to Section 9 of the *Notice of Intent*, automatically become part of the evidentiary record of this disciplinary action upon default (for the purpose of proving a prima facie case (ORS 183.417(4)), the Real Estate Commissioner finds:

2.1 A notice of intent is properly served when deposited in the United States mail, registered or certified mail, and addressed to the real estate licensee at the licensee's last known address of record with OREA. (ORS 183.415(2); OAR 137-003-0505; OAR 863-001-0006. If correctly addressed, such a notice is effective even though it is not received by the person to be notified. *Stroh v. SAIF*, 261 OR 117, 492 P2d 472 (1972) (footnote 3 in this case misquotes the cited treatise and contradicts the text of the opinion; treatise and cited case law support the proposition stated in the text.) Also, notice is effective even though the addressee fails or refuses to respond to a postal service "mail arrival notice" that indicates that certified or registered mail is being held at the post office. See *State v. DeMello*, 300 Or App 590, 716 P2d 732 (1986) (discussing use of certified mail to effectuate notice of driver's license suspension under ORS 482.570). See also *El Rio Nilo, LLC v. OLCC*, 240 Or App 362, 246 P3d 508 (2011) (Notice by certified mail effective even though addressee did not pick up in time to file request for hearing timely).(Oregon Attorney General's Administrative Law Manual and Uniform Model Rules Of Procedure Under the Administrative Procedures 2019 Edition at pages 97-98.

2.2 Harmon's last known address of record with the Agency was PO Box 642, Oakridge, OR 97463.

2.3 A certified mailing of the *Notice of Intent* was mailed to Harmon at her last known address of record on May 18, 2022. The certified mailing of the notice has not been returned to the Agency. On May 26, 2022, the return receipt was returned to the Agency for the certified mailing. The return receipt showed the *Notice* was received and signed for by LuAnn Harmon.

2.4 The notice was also mailed regular first-class mail in a handwritten envelope to the above address for Harmon. The mailing in the handwritten envelope has not been returned to OREA. The OAH Rules contain a rebuttable presumption that documents sent by regular mail are received by the addressee. ORS 137-003-0520(10). If the regularly mailed notice is actually received, it is effective on the date received, rather than the date of mailing.

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

2.6 According to ORS 696.775, the lapsing, expiration, revocation or suspension of a real estate license, whether by operation of law, order of the Real Estate Commissioner or decision of a court of law, or the inactive status of the license, or voluntary surrender of the license by the real estate licensee does not deprive the commissioner of jurisdiction to: (1) proceed with an investigation of the licensee; (2) conduct disciplinary proceedings relating to the licensee; (3) Take action against a licensee, including assessment of a civil penalty against the licensee for a violation of ORS 696.020(2); or (4) revise or render null and void an order suspending or revoking a license.

2.7 As noted in Section 9 of the *Notice of Intent to Reprimand*, and section 2 above, the Agency's entire investigation file was designated as the record for purposes of presenting a prima facie case upon default, including submissions from Harmon and all information in the administrative file relating to the mailing of notices and any responses received.

FINDINGS OF FACT

3.

3.1 At all times mentioned herein, Harmon was licensed as a principal broker with Oakridge Real Estate Co.

3.2 In September 2021, Harmon called the Agency explaining she had identified approximately \$8,000 to \$8,500 in her clients' trust account and she wasn't sure who the funds belonged to. At that time, Harmon had not notified the Agency of the clients' trust account. The Agency opened an investigation.

3.3 Previously, Harmon was issued an Educational Letter of Advice dated October 30, 2020, stating clients' trust account ending in #0580 (CTA #0580) was not registered with the Agency. In the letter Harmon was reminded of the requirement to register clients' trust accounts with the Agency within 10 days of opening the account.

3.4 In a phone call on December 1, 2021, Harmon told Agency Financial Investigator/Auditor Aaron Grimes (Grimes) she had switched banks and that was how she discovered there were remaining funds in CTA #0580. In a follow-up email that same day, Grimes urged Harmon to identify and remove funds that were not clients' trust funds from CTA #0580. Grimes asked Harmon to notify the Agency of the clients' trust account. Additionally,

Grimes requested an accounting of the identification and resolution of the funds. Harmon has not provided this documentation to the Agency.

3.5 CTA #0580 was held at Banner Bank. On December 23, 2021, Harmon emailed Rustie Aukland (Aukland) at Banner Bank asking for a formal letter opening CTA #0580. Harmon included the Notice of Clients' Account & Authorization to Examine form for CTA #0580, which was dated and signed on December 23, 2021, by Harmon.

3.6 On December 27, 2021, Aukland replied to Harmon, "I have looked through the documents we have and I am not able to find anything regarding the opening of the Clients Trust account [sic]. As you stated, the account was opened in 1996 and at that time I would venture to guess there was not a requirement in place. Your accounts were "grandfathered" over with each change of banks therefore you would not have been required to provide anything. Sorry I am not able to help."

3.7 On December 28, 2021, Harmon replied to Aukland and wrote she needed to re-apply for a clients' trust account with First Tech to comply with the state's clients' trust account rules.

3.8 In a telephone call with Grimes on January 3, 2022, Harmon explained she had already closed CTA #0580 at Banner Bank. She had transferred \$8,534.99 on September 2, 2021, from CTA #0508 at Banner Bank into its own account at First Tech. She disbursed \$1,000 in earnest money funds but didn't know what to do with the remaining \$7,000 in the new account at First Tech.

3.9 Harmon did not register CTA #0580 with the Agency and later failed to notify the Agency of the closing of this account. She also failed to notify the Agency of the opening of the second clients' trust account at First Tech.

3.10 Initially, when Harmon called the Agency on September 23, 2021, she reported she had found \$8,000 to \$8,500 in the clients' trust account but didn't know to whom the funds belonged. Later, Harmon stated she returned \$1,000 that belonged to a "purchasing client" who disappeared to California. At the time of the investigation, Harmon thought the rest of the funds were most likely commissions that should have been placed in the general account instead of the clients' trust account.

3.11 Harmon stated she had no records to back up why she was holding the funds as if they belong to others. Harmon has not provided an accounting the funds, as requested by the Agency on December 1, 2021.

3.12 On February 27, 2022, Harmon explained she could not provide accounting records to the Agency as requested because she was not reconciling CTA #0580 monthly and could not recall when she last performed a monthly reconciliation.

3.13 All of the above violations demonstrate incompetence in performing acts for which Harmon is required to hold a license.

3.14 Since February, 2022, Agency staff made attempts to obtain mitigation documentation from Harmon. Harmon offered, multiple times, to provide mitigating documentation; however, she ultimately failed to provide any to the Agency.

STATEMENT OF LAW APPLICABLE TO FINDINGS OF FACT

4.

4.1 ORS 696.301(3) states a real estate licensee's real estate license may be disciplined if they have: ORS 696.301(3) which states a real estate licensee's real estate license may be disciplined if they have: (3) disregarded or violated any provision of ORS 659A.421, 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of the Real Estate Agency

4.2 ORS 696.301(12) states a licensee's real estate license may be disciplined if they have demonstrated incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license.

4.3 ORS 696.301(3) as it incorporates:

a. ORS 696.241(5) (2021 Edition) states a principal real estate broker or licensed real estate property manager may not commingle any other funds with the trust funds held in a clients' trust account.

b. ORS 696.245(2) (2019 and 2021 Editions) requires within 10 business days from the date a clients' trust account is opened, a licensed real estate property manager or principal real estate broker to notify the Real Estate Agency that the account has been opened.

c. ORS 696.245(3) (2019 and 2021 Editions) states within 10 business days from the date a clients' trust account is closed or transferred, a licensed real estate property manager or principal real estate broker shall notify the agency that the account has been closed or transferred and shall include in the notice the date on which the account was closed or transferred.

d. ORS 696.280(1),(3),(4)(d), and (5) (2021 Edition) states: (1) a licensed real estate property manager or principal real estate broker shall maintain within this state, except as provided in subsection (6) of this section, complete and adequate records of all professional real estate activity conducted by or through the licensed real estate property manager or principal broker. The Real Estate Agency shall specify by rule the records required to establish complete and adequate records of a licensed real estate property manager's or principal real estate broker's professional real estate activity. The only documents the agency may require by rule a licensed real estate property manager or principal real estate broker to use or generate are documents that are otherwise required by law or are voluntarily generated in the course of conducting professional real estate activity. (3) Records maintained under this section must at all times be open for inspection by the Real Estate Commissioner or the commissioner's authorized representatives. (4) Except as provided in subsection (2) of this section, records under this section must be maintained by the real estate licensee for a period of not less than six years after the following date: (d) For all other records, the date the record was created or received, whichever is later. (5) Records under this section may be maintained in any format that allows for inspection and copying by the commissioner or the commissioner's representatives, as prescribed by rule of the Agency.

e. OAR 863-015-0250(1)(g) (1-1-21 Edition) states (1) complete and adequate records of professional real estate activity include complete, legible, and permanent copies of all documents required by law or voluntarily generated during a real estate transaction, including all offers received by or through real estate brokers or principal brokers to the client, including, but not limited to, the following: (g) all financial records as required in OAR 863-015-0255 and 863-015-0275.

f. OAR 863-015-0255(2),(3), and (4) (1-1-20 and 1-1-21 Editions) states: (2) Within 10 business days from the date a clients' trust account is opened, the principal broker must notify

the Agency using an online process established by the Agency. The notification will include the information required in ORS 696.245, including a copy of the completed and signed “Notice of Clients’ Trust Account and Authorization to Examine.” (3) Within 10 business days from the date a clients’ trust account is closed or transferred, the principal broker must notify the Agency using an online process established by the Agency. (4) Principal brokers must retain and store the records described in this rule as required by OAR 863-015-0250 and 863-015-0260. However, where clients’ trust accounts are maintained at branch offices, the financial records described in this rule may be maintained and located either at the principal broker’s main office, or if the principal broker or branch office manager conducts the real estate business from that branch office, at that branch office.

g. ORS 863-015-0257(9) (1-1-21 Edition) states if any forfeited earnest money, earnest money or other money is being paid to the principal broker for compensation and is being held in the client’s trust account at the time the transaction is completed or terminated, the money must be disbursed to the principal broker within ten calendar days from the date the transaction is completed or terminated.

h. OAR 863-015-0259(4)(a),(b),(c),(d),(e), and (5) (1-1-21 Edition) states: (4) Principal brokers must maintain a complete ledger account and record all funds received in their professional real estate activity. This ledger account must show: (a) from whom the funds were received, (b) the date the funds were received, (c) the date the funds were deposited, (d) where the funds were deposited, and (e) when the transaction has been completed or the offer has failed, the final disposition of the funds. (5) Principal brokers must record and track the transfer of promissory notes and other forms of consideration by a ledger account or by other means including, but not limited to, written proof of transmittal or receipt retained in their offer or transaction file.

i. OAR 863-015-0275(1),(2)(a),(b),(c),(4), and (6) (1-1-21 Edition) states: (1) A principal real estate broker must reconcile each clients’ trust account at least once each month. The reconciliation must comply with all of the following conditions: (2) The reconciliation must have three components: (a) the bank statement balance, adjusted for outstanding checks and other reconciling bank items; (b) the balance of the receipts and disbursements journal or check book register as of the bank statement closing date; and (c) the sum of all the balances of the

individual trust account ledgers as of the bank statement closing date. (4) The principal broker must verify, sign, and date the reconciliation when completed. (6) The principal broker must preserve and file in logical sequence the reconciliation worksheet, bank statement, and all supporting documentation, including but not limited to, copies of the receipts and disbursement journal or check book register and a listing of each individual clients' trust account with a balance as of the reconciliation date. If these records are computerized, they must be printed out for filing with the reconciliation.

ULTIMATE FINDINGS OF FACT

5.

5.1 Harmon failed to register CTA #0580 and notify the Agency of the account. Harmon later closed CTA #0580 and opened a second clients' trust account with First Tech. Harmon failed to notify the Agency of the closing of CTA #0580 or the opening of the second clients' trust account at First Tech.

5.2 Harmon commingled her own funds with the funds of others maintained in CTA #0580.

5.3 Harmon failed to maintain her professional real estate records.

5.4 Harmon admitted she had not reconciled CTA #0580 monthly and could not recall the last time she had done so.

5.5 Harmon demonstrated incompetence in performing acts for which Harmon is required to hold a license.

5.6 In summary, the facts above establish grounds to reprimand Harmon's principal broker license.

CONCLUSIONS OF LAW

6.

6.1 Pursuant to ORS 183.417(4) and OAR 137-003-0670 Harmon is in default.

6.2 The material facts establish a violation of a ground for discipline, by preponderance of the evidence, under ORS 696.301 as set forth in the *Notice of Intent to Reprimand*.

6.3 Based on these violations, the Agency may reprimand Harmon's principal broker license.

6.4 Specifically, Harmon is subject to discipline pursuant to ORS 696.301(3), and (12) for (3) disregarding or violating any provision of ORS 659A.421, 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of the Real Estate Agency; and (12) demonstrating incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license.

6.5 A reprimand of Harmon's principal broker license is appropriate for violations of ORS 696.301(3) and (12).

6.6 Based on the evidence in the record, the preponderance of the evidence supports the reprimand of Harmon's principal broker license.

6.7 The Agency may therefore, reprimand Harmon's principal broker license.

6.8 The specific violations are repeated here below:

- (1) Harmon failed to register CTA #0580 and notify the Agency of the account. Harmon later closed CTA #0580 and opened a second clients' trust account with First Tech. Harmon failed to notify the Agency of the closing of CTA #0580 or the opening of the second clients' trust account at First Tech in violation of ORS 696.301(3) as it incorporates ORS 696.245(2) and (3) (2019 and 2021 Editions) and OAR 863-015-0255(2), (3), and (4) (1-1-20 and 1-1-21 Editions).
- (2) By commingling her own funds with the funds of others maintained in CTA #0580 Harmon violated ORS 696.301(3) as it incorporates ORS 696.241(5) (2021 Edition) and OAR 863-015-0257(9) (1-1-21 Edition).
- (3) Harmon failed to maintain her professional real estate records in violation of ORS 696.301(3) as it incorporates ORS 696.280(1),(3),(4)(d), and (5) (2021 Edition), and OAR 863-015-0259(4)(a),(b),(c),(d),(e), and (5) (1-1-2021 Edition).
- (4) Harmon admitted she had not reconciled CTA #0580 monthly and could not recall the last time she had done so, in violation of ORS 696.301(3) as it incorporates OAR 863-015-0250(1)(g), and OAR 863-015-0275(1),(2)(a),(b),(c),(4), and (6) (1-1-2021 Edition).

(5) The above violations demonstrate incompetence in violation of ORS 696.301(12) (2019 and 2021 Editions).

ORDER

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

Dated this 14th day of July, 2022.

OREGON REAL ESTATE AGENCY

DocuSigned by:
Steven Strobe
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Steven Strobe
Real Estate Commissioner

NOTICE OF RIGHT TO APPEAL: 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 to the Oregon Court of Appeals, pursuant to the provisions of ORS 183.482.

Certificate of Mailing

On July 14, 2022, I mailed and emailed the foregoing Final Order by Default issued on this date in Agency Case No. 2021-677.

By: First Class Mail

PATRICIA A HARMON
PO BOX 642
OAKRIDGE, OR 97463-0000

By Email:

PATRICIA A HARMON
harmon@efn.org

Rick Marsland
Licensing Specialist

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of
GERALD T. PAPENHEIM)
STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Gerald T. Papenheim (Papenheim) do hereby agree and stipulate to the following:

FINDINGS OF FACT, STATEMENTS OF LAW
AND
CONCLUSIONS OF LAW

1.

In establishing the violations set forth herein, the Agency may rely on one or more of the definitions contained in ORS 696.010.

First and Second Findings of Fact:

1.1 At all times mentioned herein, Papenheim was licensed as a principal broker with Papenheim Properties.

1.2 On March 9, 2022, Papenheim self-reported a criminal conviction to the Agency. The Agency opened an investigation.

1.3 On October 7, 2022, through the Deschutes County Circuit Court, Papenheim was charged with Criminal Trespass in the First Degree and Criminal Trespass in the Second Degree.

1.4 On January 25, 2022, Papenheim was convicted of Criminal Trespass in the Second Degree through the Deschutes County Circuit Court, based on a no contest plea on December 9, 2021. Per the Judgment, Papenheim was ordered to complete 8 hours of community service and pay a fine of \$200.00.

1.5 On July 22, 2021, a deputy sheriff from the Deschutes County Sheriff's Office

1 was dispatched to contact Brian Abendroth (Abendroth) regarding a trespasser at his
2 residence located at 18920 River Woods Dr., Bend, Oregon (subject property). Abendroth
3 reported two males entered the property for an unknown reason. Abendroth told officers he
4 had three separate no trespassing signs on the driveway entering the property and a forth sign
5 on the gate leading to his backyard where the two men entered.

6 1.6 Papenheim told the sheriff that he was a licensed real estate broker in Oregon
7 and went to assess the property for possible purchase. Papenheim told the officer he didn't
8 see the no trespassing signs and was not aware the property was occupied. Papenheim
9 acknowledged to the sheriff he had made a mistake and never should have gone on the
10 subject property without permission from the owner or occupant.

11 1.7 During his interview with Agency Financial Investigator/Auditor Frank Leonard
12 Papenheim stated he did not enter the house and that he had only entered the front and rear
13 yard of the subject property.

14 **First Statement of Law:** ORS 696.301(11) authorizes the Commissioner to reprimand
15 a licensee's real estate license who has been convicted of a felony or misdemeanor
16 substantially related to the real estate licensee's trustworthiness or competence to engage in
17 professional real estate activity.

18 **First Conclusion of Law:** On January 25, 2022, Papenheim was convicted of Criminal
19 Trespass in the Second Degree for his actions on or about July 22, 2021, in violation of ORS
20 696.301(11) (2021 Edition).

21 **Second Statement of Law:** ORS 696.301(12) authorizes the Commissioner to
22 reprimand a licensee's real estate license who has demonstrated incompetence or
23 untrustworthiness in performing any act for which the real estate licensee is required to hold a
24 license.

25 **Second Conclusion of Law:** On July 22, 2021, Papenheim walked onto and around
26 the subject property without permission of the owner, in violation of ORS 696.301(12) (2021
27 Edition).

28 **Third Findings of Fact:**

29 1.8 On March 9, 2022, Pepenheim self-reported his criminal conviction to the Agency
30 43 days after the signed judgment which was issued on January 25, 2022.

1 **Third Statement of Law:** ORS 696.301(3) authorizes the Commissioner to reprimand a
2 licensee’s real estate license who has disregarded or violated any provision of ORS 659A.421,
3 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of the
4 Real Estate Agency. Implementation of ORS 696.301(3) is made through OAR 863-015-
5 0175(1)(a)(b)(c)(4) (1-1-2021 Edition) which states: (1) A real estate licensee must notify the
6 Commissioner of the following: (a) Any criminal conviction (felony or misdemeanor), including
7 a “no contest” plea or bail forfeiture; (b) Any adverse decision or judgment resulting from any
8 civil or criminal suit or action or arbitration proceeding or any administrative or Oregon State
9 Bar proceeding related to the licensee in which the licensee was named as a party and against
10 whom allegations concerning any business conduct or professional real estate activity is
11 asserted; and (c) Any adverse decision or judgment resulting from any other criminal or civil
12 proceeding that reflects adversely on the “trustworthy and competent” requirements contained
13 in ORS Chapter 696 and its implementing rules; and (4) the notification required by this rule
14 must be made within twenty 20 calendar days after receiving written notification of an adverse
15 judgment, award, or decision described in this rule. Notification must be made under this rule
16 whether or not the decision is appealed.

17 **Third Conclusion of Law:** By reporting the conviction 43 days after the judgment was
18 issued, Papenheim violated ORS 696.301(3) and its implementing rule OAR 863-015-
19 0175(1)(a)(b)(c)(4) (1-1-2021 Edition).

20 **Fourth Findings of Fact:**

21 1.9 In the above violations Papenheim demonstrated conduct below the standard of
22 care for the practice of professional real estate activity in Oregon.

23 **Forth Statement of Law:** ORS 696.301(15) authorizes the Commissioner to reprimand
24 a licensee’s real estate license who has engaged in conduct that is below the standard of care
25 for the practice of professional real estate activity in Oregon as established by the community
26 of individuals engaged in the practice of professional real estate activity in Oregon.

27 **Forth Conclusion of Law:** In the above violations Papenheim engaged in conduct
28 below the standard of care for the practice of professional real estate activity in Oregon, in
29 violation of ORS 696.301(15) (2021 Edition).

30 ///

1 understand that the Order which follows hereafter, which I have also read and understand,
2 may be completed and signed by the Real Estate Commissioner or may be rejected by the
3 Real Estate Commissioner. I further understand that, in accordance with the provisions of
4 ORS 696.445(3), notice of this Order shall be published in the Oregon Real Estate News
5 Journal.

6 In addition to all of the above, I agree that once the Commissioner executes this
7 Stipulated Final Order, I will accept service of the Stipulated Final Order by email, and hereby
8 waive the right to challenge the validity of service.

9 ORDER

10 IT IS HEREBY ORDERED that Gerald T. Papenheim’s principal broker license be, and
11 hereby is reprimanded.

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IT IS SO STIPULATED:

IT IS SO ORDERED:

DocuSigned by:

AC93BA23A0234DD...

DocuSigned by:

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GERALD T. PAPHENHEIM

STEVEN STRODE

Real Estate Commissioner

Date 7/29/2022 | 9:49 AM PDT

Date 8/1/2022 | 7:43 AM PDT

Date of Service: 08/01/2022

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of

JOHN-CURTIS PAZ

FINAL ORDER BY DEFAULT

PROCEDURAL HISTORY AND PROCEDURAL LAW

1.

1.1 On October 28, 2021, the Real Estate Commissioner issued, by certified mail, a *Notice of Intent to Revoke License No. PM 201218387 and to Assess a Civil Penalty*. The Oregon Real Estate Agency (Agency) sent the *Notice of Intent* to John-Curtis Paz’s (Paz) last known addresses of record with the Agency (PO Box 386, Sandy OR 97055 and 44354 SE Hwy 26, Sandy OR 97055). The *Notice of Intent* was also mailed to Paz by regular first-class mail to the above addresses in a handwritten envelope.

1.2 The certified mailing receipt associated with the *Notice* mailing to 44354 SE Hwy 26, Sandy, OR 97055 was returned to the Agency on November 3, 2021. The receipt was signed by someone other than Paz. The certified mailing of the *Notice* addressed to Paz at PO Box 386, Sandy, OR 97055 was returned to the Agency marked “Return to Sender Unclaimed Unable to Forward.”

1.3 On October 28, 2021, the Notice was also emailed to Paz’s email address of record. The email was not returned as undeliverable. And per DocuSign Certificate of Completion, the document was viewed by Paz at 8:58 AM on November 15, 2021.

1.4 On November 15, 2021, the Agency received a hearing request from Paz.

1.5 On January 5, 2022, the Agency referred the case to the Office of Administrative Hearings

1.6 A pre-hearing conference was held on February 25, 2022 at 9AM and hearing dates were set for June 28, 2022 through June 29, 2022 starting at 9AM.

1.7 The assigned Administrative Law Judge from the Office of Administrative Hearings convened the hearing as scheduled on June 28, 2022. Paz did not appear at the hearing, nor did he notify the Agency or the Office of Administrative Hearings that he would not appear at the scheduled hearing.

2.

Based upon the foregoing, and upon the Agency's investigation reports, documents and files that, pursuant to Section 9 of the *Notice of Intent*, automatically become part of the evidentiary record of this disciplinary action upon default (for the purpose of proving a prima facie case (ORS 183.417(4)), the Real Estate Commissioner finds:

2.1 According to ORS 696.775, the lapsing, expiration, revocation or suspension of a real estate license, whether by operation of law, order of the Real Estate Commissioner or decision of a court of law, or the inactive status of the license, or voluntary surrender of the license by the real estate licensee does not deprive the commissioner of jurisdiction to: (1) proceed with an investigation of the licensee; (2) conduct disciplinary proceedings relating to the licensee; (3) Take action against a licensee, including assessment of a civil penalty against the licensee for a violation of ORS 696.020(2); or (4) revise or render null and void an order suspending or revoking a license.

2.2 As noted in section 9 of the *Notice of Intent to Revoke License No. PM 201218387 and to Assess a Civil Penalty* and section 2 above, the Agency's entire investigation file was designated as the record for purposes of presenting a prima facie case upon default, including submissions from Paz and all information in the administrative file relating to the mailing of notices and any responses received.

FINDINGS OF FACT

3.

3.1 On December 20, 2020, Paz became licensed as a property manager, working under the registered business name Ataraxis Property Management LLC.

3.2 On December 23, 2020, the Agency received a complaint from Andrey Labunskey against Paz.

3.3 Labunskey is a licensed principal broker with Atlas Management LLC and is the president of the company.

3.4 Prior to becoming licensed, on March 2, 2020, Paz was hired by Atlas as a Community Manager. Paz was promoted to Portfolio Manager and became responsible for Mist Wood Apartments located at 2655 NE 205 Ave, Fairview, OR (Mist Wood).

3.5 County records show ANR Fairview LLC as the owner of Mist Wood. Secretary of State records showed the Avery Living Trust, with AC Avery (Avery) as Trustee, as owner of both ANR Fairview LLC and A.C. Avery LLC (AC Avery).

3.6 On December 20, 2020, Paz became licensed as a property manager. Prior to becoming licensed, Paz signed a property management agreement for the Mist Wood property on December 9, 2020. The property management agreement was between Ataraxis Property Management LLC (Ataraxis) and ANR Fairview LLC. Paz applied to register Ataraxis as a registered business name with the Agency on December 10, 2020. This property management agreement was initially provided to the Agency by Karin Winans (Winans) from AC Avery LLC.

3.7 The property management agreement between Ataraxis and ANR Fairview LLC listed the Mist Wood address as 2645 NE 205th instead of 2655 NE 205th, which is the record as found on Multnomah County Property records. The apartments were originally recorded at 2645 NE 205th Street but when the property was later divided up, the apartments were assigned the 2655 NE 205th address.

3.8 The property management agreement provided by Winans from AC Avery LLC for Mist Wood showed it was signed by A.C. Buzz Avery on December 7, 2020, and by Paz on December 9, 2020 (prior to Paz obtaining a property manager license).

3.9 On May 3, 2021, Paz provided a property management agreement for Mist Wood. The property management agreement provided by Paz was identical to the one provided to Winans except the signature dates were different, and the PDF appeared to be a copy as Paz's document was in black and white and not in color as the original. Paz's copy of the property management agreement showed that he signed on December 10, 2020, and A.C. Buzz Avery signed on December 20, 2020.

3.10 The DocuSign envelope ID was identical on both property management agreements, D6E9BB5B-87B6-45D1-A56E-DA86DC8B8F4E, as shown in the upper left hand corner.

3.11 Agency Investigator/Auditor Cidia Nañez requested Paz to submit the certificate of completion for the Envelope ID D6E9BB5B-87B6-45D1-A56E-DA86DC8B8F4E, for the property management agreement he had submitted to the Agency. Paz responded, “The original PMA was not executed solely on DocuSign so this is not available; I no longer have access to the original account as it was a free trial.”

3.12 The property management agreement provided by Winans shows on the date line below A.C. Buzz Avery’s signature that dashes were used to separate the date numbers, whereas the property management agreement submitted by Paz, shows the date entered under A.C. Buzz Avery’s signature used slashes to separate the numbers.

3.13 The signature date under Paz’s name, on the agreement he provided, of December 10, 2020, coincided with the date Paz applied with the Agency to register his company, Ataraxis, as a registered business name. The signature date under Avery’s name, December 20, 2020, coincided with the date Paz completed all licensing requirements and received a property manager license.

3.14 Winans confirmed the property management agreement she submitted to the Agency was the only one A.C. Buzz Avery had signed (apart from one later signed in May 2021 removing the compensation addendum per lender’s request).

3.15 Agency records showed Paz reported clients’ trust account ending in #1930, named “MW2655 CTA” was opened on December 22, 2020.

3.16 The March 2021 AppFolio Reconciliation Report for clients’ trust account ending in #1930 concealed the Adjusted Cash Balance and final outcome of the reconciliation found on the final page of the report. The final page of the AppFolio Reconciliation report can be seen, in its entirety, on a revised March 2021 AppFolio Reconciliation report Paz later submitted on May 11, 2021.

3.17 Owner statements provided by Paz on April 27, 2021, showed several entries of bank charges. The property management agreement did not reference bank charges or who

would be responsible for bank fees. Paz did not provide a signed addendum regarding the bank charges.

3.18 February 2021 owner ledger statement for clients' trust account ending in #1390 showed an insufficient balance from February 25, 2021, through February 28, 2021.

3.19 The ledger first became insufficient on February 25, 2021, when a disbursement of \$18,695.28 was made (noted as Owner Distribution- February Draw) which left the balance as -\$174.45. The negative balance continued through the end of the month.

3.20 Agency records showed Paz reported security deposit account named "MW2655 CTA SD" ending in #3781 was opened on December 22, 2020.

3.21 On April 26, 2021, Paz was requested to provide his most recent monthly reconciliation for security deposits account ending in #3781. On April 27, 2021, Paz provided the following documents: a March 2021 AppFolio Reconciliation Report, a Wells Fargo Bank Statement and a Security Deposit Funds Detail report. Paz did not provide a signed single reconciliation document.

3.22 The March 2021 AppFolio Reconciliation Report for security deposits account ending in #3781 concealed the Adjusted Cash Balance and final outcome of the reconciliation found on the final page of the report. The final page of the AppFolio Reconciliation report can be seen, in its entirety, on a revised March 2021 AppFolio Reconciliation report Paz later submitted on May 11, 2021.

3.23 Wells Fargo bank statement for clients' trust account ending in #3781 showed an ending balance on March 31, 2021 of \$21,631.17. The Security Deposits Funds Detail report showed a balance on March 31, 2021, of \$21,631.00. The difference of \$.17 was interest that was earned that month.

3.24 The tenant rental lease agreement did not state that the security deposits were deposited into an interest bearing account and that interest earned would be disbursed to the owner.

STATEMENT OF LAW APPLICABLE TO FINDINGS OF FACT

4.

4.1 ORS 696.020(2) (2019 Edition) 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.

4.2 ORS 696.301(3) states a real estate licensee's real estate license may be disciplined if they have: disregarded or violated any provision of ORS 659A.421, 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of the Real Estate Agency

4.3 ORS 696.301(12) states a licensee's real estate license can be disciplined if they have demonstrated incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license.

4.4 ORS 696.301(14) states a licensee's real estate license can be disciplined if they have committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or real estate licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity.

4.5 ORS 696.301(15) states a licensee's real estate license can be disciplined if they engaged in any conduct that is below the standard of care for the practice of professional real estate activity in Oregon as established by the community of individuals engaged in the practice of professional real estate activity in Oregon.

4.6 ORS 696.301(3) incorporates:

a. ORS 696.890(4)(a)(c)(e)(f) (2019 Edition) states: (4) a property manager owes the property owner the following affirmative duties: (a) to deal honestly and good faith; (c) to exercise reasonable care and diligence; (e) to act in a fiduciary manner in all matters relating to trust funds; and (f) to be loyal to the owner by not taking action that is adverse or detrimental to the owner's interest.

b. OAR 863-025-0020(2)(a) (1-1-20 Edition) states: a property management agreement must include, but is not limited to the address or legal description of the owner's rental real estate.

c. OAR 863-025-0020(3)(c) (1-1-20 Edition) which states: (3) if the property manager and owner agree to any of the following terms, the terms must be included in the property management agreement: (c) specific charges that will be paid by the owner.

d. OAR 863-025-0025(1)(a) (1-1-20 Edition) states all clients' trust accounts and security deposits accounts must be labeled on all bank records and checks as "Clients' Trust Account" or "Client Trust Account."

e. OAR 863-025-0025(1)(b) (1-1-20 Edition) which states: all security deposits trust accounts must be labeled on all bank records and checks as "Clients' Trust Account – Security Deposits" or "Client Trust Account SD".

f. OAR 863-025-0025(11)(b)(c) (1-1-20 Edition) which states: (11) a property manager may place security deposits received by the property manager in a federally insured interest bearing security deposits account if: (b) the tenant or tenants whose security deposits are deposited into such account have provided written approval for such an account; and (c) the provisions in the property management agreement and the written approval of the tenant specify to whom and under what circumstances the interest earnings will accrue and be disbursed.

g. OAR 863-025-0027(3) (1-1-20 Edition) states: (3) a property manager must not disburse funds from a clients' trust account or security deposits account unless there are sufficient funds, as defined in OAR 863-025-0010, in the ledger account against which the disbursement is made. OAR 863-025-0010(21) defines, "Sufficient funds", as an amount of funds on an owner's ledger or a tenant's ledger that is equal to or greater than the amount of a planned disbursement from a clients' trust account or a security deposits account but which must not include any security deposits in a security deposits trust account that are required to be held pending the termination of a rental agreement. Only funds belonging to the owner or tenant on whose behalf the disbursement is planned may be considered in determining if there are sufficient funds or a sufficient credit balance.

h. OAR 863-025-0028(3)(a)(d)(A)(B) (1-1-20 Edition) which states: (3) a property manager must reconcile each security deposits account within 30 calendar days of the bank statement pursuant to the requirements contained in this section. (a) The reconciliation must have three components that are contained in a single reconciliation document: (d) Within 30

calendar days of the date of the bank statement, the property manager must: (A) complete the reconciliation document; and (B) sign and date attesting to the accuracy and completeness of the reconciliation.

4.7 ORS 696.010(17)(c),(h),(i),(k) (2019 Edition) defines “Professional real estate activity” as: any of the following actions, when engaged in for another and for compensation or with the intention or in the expectation or upon the promise of receiving or collecting compensation, by any person who: (c) negotiates, offers, attempts or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate.; (h) engages in management of rental real estate; (i) purports to be engaged in the business of buying, selling, exchanging, renting or leasing real estate; and (k) assists or directs in the negotiation or closing of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate.

4.8 ORS 696.010(14)(a)(A)-(M), and (b)(A)-(F) (2019 Edition) defines “Management of rental real estate.” ORS 696.010(14)(a)(M) states: (a) representing the owner of real estate under a property management agreement in the rental or lease of the real estate and includes but is not limited to: (M) offering or attempting to do any of the acts described in this paragraph for the owner of real estate.

4.9 ORS 696.010(6) (2019 Edition) defines “compensation as: valuable consideration for services rendered or to be rendered, whether contingent or otherwise.

4.10 ORS 696.990(4)(a) and (b) states any person that violates ORS 696.020(2) may be required by the Real Estate Commissioner to forfeit and pay to the General Fund of the State Treasury a civil penalty in an amount determined by the commissioner of: (a) not less than \$100 nor more than \$500 for the first offense of unlicensed professional real estate activity; and (b) not less than \$500 nor more than \$1,000 for the second and subsequent offenses of unlicensed professional real estate activity.

ULTIMATE FINDINGS OF FACT

5.

5.1 Paz signed the property management agreement between Ataraxis Property Management LLC (Ataraxis) and ANR Fairview LLC on December 9, 2020, prior to have a

license. Paz engaged unlicensed professional real estate activity and constitutes grounds to impose a civil penalty under ORS 696.990(4)(a) and (b).

5.2 The property management agreement between Ataraxis and ANR Fairview LLC incorrectly listed the address for Mist Wood at 2645 NE 205th and not 2655 NE 205th as found on Multnomah County Property records.

5.3 Paz submitting an altered copy of the property management agreement between Ataraxis and ANR Fairview to the Agency.

5.4 Paz named clients' trust account ending in #1930 "MW2655 CTA," which did not include the required naming requirements.

5.5 On April 27, 2021, Paz sent the Agency a copy of the March 2021 AppFolio Reconciliation report for clients' trust account ending in #1930 which concealed the Adjusted Cash Balance and final outcome of the reconciliation.

5.6 Paz failed to address who was responsible for bank fees in the property management agreement.

5.7 Paz made disbursements from the owner ledger account for clients' trust account ending in #1390 when there were not sufficient funds to do so. The insufficient balance started on February 25, 2021 and continued through February 28, 2021.

5.8 Paz named the security deposit account ending in #3781 "MW2655 CTA SD," which did not include the required naming requirements.

5.9 Paz failed to properly complete and provide the reconciliation on a signed single reconciliation document for March 2021 for security deposits account ending in #3781.

5.10 On April 27, 2021, Paz sent the Agency a copy of the March 2021 AppFolio Reconciliation report for CTA-SD #3781, which concealed the Adjusted Cash Balance and final outcome of the reconciliation.

5.11 Tenant security deposits were deposited and being held in an interest bearing account. The tenant rental agreement did not state that security deposits were deposited in an interest-bearing account.

5.12 In summary, the facts above establish grounds to revoke Paz's property manager license and impose a \$500.00 civil penalty.

CONCLUSIONS OF LAW

6.

6.1 Pursuant to ORS 183.417(4) and OAR 137-003-0670 Paz is in default.

6.2 The material facts establish a violation of a ground for discipline, by preponderance of the evidence, under ORS 696.301 as set forth in the *Notice of Intent to Revoke License No. PM 201218387 and to Assess a Civil Penalty*. ORS 696.396(1),(2)(c)(B) and (C).

6.3 Based on these violations, the Agency may revoke Paz's property manager license.

6.4 Specifically, Paz is subject to discipline pursuant to ORS 696.301(3), (12), (14), and (15) for (3) disregarding or violating any provision of ORS 659A.421, 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of the Real Estate Agency; (12) demonstrating incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license; (14) committing an act of fraud or engaging in dishonest conduct substantially related to the fitness of the applicant or real estate licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity; and (15) engaging in any conduct that is below the standard of care for the practice of professional real estate activity in Oregon as established by the community of individuals engaged in the practice of professional real estate activity in Oregon.

6.5 A revocation of Paz's property manager license is appropriate for violations of ORS 696.301(3), (12), (14) and (15).

6.6 A revocation of Paz's property manager license is appropriate under ORS 696.396(2)(c)(B) and (C). According to ORS 696.396(2)(c)(B) and (C) the Agency may revoke a real estate license if the material facts establish a violation of a ground of discipline under ORS 696.301 that: (B) exhibits incompetence in the performance of professional real estate activity; (C) exhibits dishonesty or fraudulent conduct.

6.7 The *Notice of Intent to Revoke License No. PM 201218387 and to Assess a Civil Penalty* also established grounds to assess a civil penalty pursuant to ORS 696.990(4)(a) and

(b) for violations of ORS 696.020(2), and based on these violations, the Agency may access a civil penalty against Paz.

6.8 Based on the evidence in the record, the preponderance of the evidence supports the revocation of Paz's property manager license and assessing a \$500.00 civil penalty for the professional real estate activity conducted prior to Paz having a license.

6.9 The Agency may therefore, revoke Paz's property manager license. The Agency may also assess a civil penalty in the amount of \$500.00.

6.10 The specific violations are repeated here below:

(1) By signing the property management agreement between Ataraxis Property Management LLC (Ataraxis) and ANR Fairview LLC on December 9, 2020, prior to having a license, Paz engaged in unlicensed professional real estate activity (ORS 696.010(17)(c),(h),(i),(k) and ORS 696.010(14)(a)(M)) in violation of ORS 696.020(2) (2019 Edition).

(2) The property management agreement between Ataraxis and ANR Fairview LLC incorrectly listed the address for Mist Wood at 2645 NE 205th and not 2655 NE 205th as found on Multnomah County Property records in violation of ORS 696.301(3) as it incorporates OAR 863-025-0020(2)(a) (1-1-20 Edition).

(3) By submitting an altered copy of the property management agreement between Ataraxis and ANR Fairview to the Agency, Paz violated ORS 696.301(12),(14), and (15) (2019 Edition).

(4) By naming the clients' trust account ending in #1930 "MW2655 CTA," which did not include the required naming requirements, Paz violated ORS 696.301(3) as it incorporates OAR 863-025-0025(1)(a) (1-1-20 Edition).

(5) On April 27, 2021, Paz sent the Agency a copy of the March 2021 AppFolio Reconciliation report for clients' trust account ending in #1930 which concealed the Adjusted Cash Balance and final outcome of the reconciliation, in violation of ORS 696.301(12),(14), and (15) (2019 Edition).

(6) By failing to address who was responsible for bank fees in the property management agreement Paz violated ORS 696.301(3) as it incorporates OAR 863-025-0020(3)(c) (1-1-20 Edition).

(7) Paz made disbursements from the owner ledger account for clients' trust account ending in #1390 when there were not sufficient funds to do so. The insufficient balance started on

February 25, 2021 and continued through February 28, 2021. Paz violated ORS 696.301(3) as it incorporates OAR 863-025-0027(3) (1-1-20 Edition) and ORS 696.890(4)(a)(c)(e)(f) (2019 Edition).

(8) By naming the security deposit account ending in #3781 "MW2655 CTA SD," which did not include the required naming requirements, Paz violated ORS 696.301(3) as it incorporates OAR 863-025-0025(1)(b) (1-1-20 Edition).

(9) By failing to properly complete and provide the reconciliation on a signed single reconciliation document for March 2021 for security deposits account ending in #3781 Paz violated of ORS 696.301(3) as it incorporates OAR 863-025-0028(3)(a)(d)(A)(B) (1-1-20 Edition).

(10) On April 27, 2021, Paz sent the Agency a copy of the March 2021 AppFolio Reconciliation report for CTA-SD #3781 which concealed the Adjusted Cash Balance and final outcome of the reconciliation in violation of 696.301(12)(14)(15) (2019 Edition). the community of individuals engaged in the practice of professional real estate activity in Oregon.

(11) Tenant security deposits were deposited and being held in an interest bearing account. The tenant rental agreement did not state that security deposits were deposited in an interest bearing account in violation of ORS 696.301(3) as it incorporates OAR 863-025-0025(11)(b)(c) (1-1-20 Edition).

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ORDER

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

IT IS FURTHER ORDERED that, pursuant to ORS 696.990(4)(a) and (b) and based upon the violation set forth above for engaging in professional real estate activity prior to having a license, Paz pay a civil penalty of \$500.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to OREA.

Dated this 29th day of July, 2022.

OREGON REAL ESTATE AGENCY

DocuSigned by:
Steven Strode
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Steven Strode
Real Estate Commissioner

NOTICE OF RIGHT TO APPEAL: 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 to the Oregon Court of Appeals, pursuant to the provisions of ORS 183.482.

Certificate of Mailing

On July 29, 2022, I mailed and emailed the foregoing Final Order by Default issued on this date in OAH Case No. 2022-ABC-05121 and the Agency Case No. 2020-626.

By: First Class Mail

John-Curtis Paz
PO Box 386
Sandy, OR 97055

John-Curtis Paz
44354 SE Hwy 26
Sandy, OR 97055

By Email:

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Rick Marsland
Licensing Specialist

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Broker
License of
JOSEPH JOHN ZIKA III

STIPULATED FINAL ORDER

The Oregon Real Estate Agency (Agency) and Joseph John Zika III (Zika) do hereby agree and stipulate to the following:

FINDINGS OF FACT, STATEMENTS OF LAW
AND
CONCLUSIONS OF LAW

1.

In establishing the violations set forth herein, the Agency may rely on one or more of the definitions contained in ORS 696.010.

Findings of Fact:

1.1 Zika was licensed as a broker working under the registered business name Bend Premier Real Estate LLC (Bend Premier). Zika’s license expired on November 1, 2021. Currently, Zika’s license remains expired.

1.2 On March 30, 2022, the Agency received a complaint from Patrick Priest against Zika and the Agency opened an investigation.

1.3 On September 16, 2021, Zika listed property located at 12227 SW Lords Place, Terrebonne, OR (subject property).

1.4 On October 1, 2021, the Agency sent a renewal notification to Zika stating his license would expire at the end of October 2021. On October 21, 2021, the Agency sent another notification to Zika regarding the upcoming license expiration.

1.5 The subject property closed on January 5, 2022, and Zika earned a commission on the sale. Zika continued conducting professional real estate activity as if actively licensed

1 working on the subject transaction, 65 days from when his license expired (November 1, 2021
2 to January 5, 2022).

3 1.6 In his interview with Agency staff, Zika stated he had no idea his license was
4 expired.

5 **Statements of Law:**

6 ORS 696.020(2) states an individual may not engage in, carry on, advertise or purport
7 to engage in or carry on professional real estate activity, or act in the capacity of a real estate
8 licensee, within this state unless the individual holds an active license as provided for in this
9 chapter.

10 ORS 696.990(4)(a) and (b) states: (4) Any person that violates ORS 696.020 (2) may
11 be required by the Real Estate Commissioner to forfeit and pay to the General Fund of the
12 State Treasury a civil penalty in an amount determined by the commissioner of:

13 (a) Not less than \$100 nor more than \$500 for the first offense of unlicensed professional real
14 estate activity; and (b) Not less than \$500 nor more than \$1,000 for the second and
15 subsequent offenses of unlicensed professional real estate activity.

16 ORS 696.990(9) states for the purposes of subsection (4) of this section, any violation
17 of ORS 696.020(2) that results from a failure of a real estate licensee to renew a license within
18 the time allowed by law constitutes a single offense of unlicensed professional real estate
19 activity for each 30-day period after expiration of the license during which the individual
20 engages in professional real estate activity. A civil penalty imposed for a violation of ORS
21 696.020(2) that results from a failure of a real estate licensee to renew a license within the time
22 allowed by law is not subject to the minimum dollar amounts specified in subsection (4) of this
23 section.

24 **Conclusion of Law:**

25 By conducting professional real estate activity over the course of 65 days after Zika's
26 license expired, Zika violated ORS 696.020(2) and is subject to discipline or civil penalty
27 pursuant to ORS 696.990(4) and (9).

28 2.

29 According to ORS 696.775, the lapsing, expiration, revocation or suspension of a real
30 estate license, whether by operation of law, order of the Real Estate Commissioner or decision

1 of a court of law, or the inactive status of the license, or voluntary surrender of the license by
2 the real estate licensee does not deprive the commissioner of jurisdiction to: (1) proceed with
3 an investigation of the licensee; (2) conduct disciplinary proceedings relating to the licensee;
4 (3) Take action against a licensee, including assessment of a civil penalty against the licensee
5 for a violation of ORS 696.020(2); or (4) revise or render null and void an order suspending or
6 revoking a license.

7 3.

8 The Agency reserves the right to investigate and pursue additional complaints that may
9 be received in the future regarding this licensee.

10 4.

11 STIPULATION AND WAIVER

12 I, Joseph John Zika III, have read and reviewed this Stipulated Final Order and its
13 Findings of Fact, Statements of Law and Conclusions of Law. I understand that the Findings
14 of Fact, Conclusions of Law and this Stipulation and Waiver of Hearing rights embody the full
15 and complete agreement and stipulation between the Agency and me. I further understand
16 that if I do not agree with this stipulation I have the right to request a Hearing on this matter
17 and to be represented by legal counsel at such a Hearing. I also understand that any Hearing
18 would be conducted in accordance with the procedures set forth in ORS Chapter 183 and in
19 accordance with the Rules of Practice and Procedure adopted by the Attorney General of the
20 State of Oregon. By signing this Stipulated Final Order I freely and voluntarily waive my rights
21 to a Hearing, to representation by legal counsel at such a Hearing, and to judicial review of this
22 matter.

23 I hereby agree and stipulate to the above Findings of Fact and Conclusions of Law and
24 understand that the Order which follows hereafter, which I have also read and understand,
25 may be completed and signed by the Real Estate Commissioner or may be rejected by the
26 Real Estate Commissioner. I further understand that, in accordance with the provisions of
27 ORS 696.445(3), notice of this Order shall be published in the Oregon Real Estate News
28 Journal.

29 ///

30 ///

1 In addition to all of the above, I agree that once the Commissioner executes this
2 Stipulated Final Order, I will accept service of the Stipulated Final Order by email, and hereby
3 waive the right to challenge the validity of service.
4

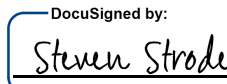
5 ORDER

6 IT IS HEREBY ORDERED that pursuant to ORS 696.990(1) to (9) and based upon the
7 violation set forth above, Zika pay a civil penalty in the sum of \$600.00, said penalty to be paid
8 to the General Fund of the State Treasury by paying the same to the Agency. The civil penalty
9 is computed in accordance with ORS 696.990(4) and (9) in that each 30-day period of
10 unlicensed activity is considered one violation. In this instance, there were two 30-day periods
11 of unlicensed activity.
12

13 IT IS SO STIPULATED:

IT IS SO ORDERED:

14
15 DocuSigned by:
16 
17 A0456F7908934B2...
18 JOSEPH JOHN ZIKA III

DocuSigned by:

E2C2D0097AD8471...
STEVEN STRODE



Real Estate Commissioner

19 Date 8/19/2022 | 9:20 AM PDT

Date 8/25/2022 | 8:12 AM PDT

20
21 Date of Service: 08/25/2022
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**REAL ESTATE BOARD
REGULATION DIVISION REPORT
October 3, 2022**

Regulation Division Manager: Elli Kataura

Compliance Specialist 3s (Compliance Coordinator): Meghan Lewis, Hani Ghamrawi

Financial Investigators (Investigator-Auditor): Jeremy Brooks, Aaron Grimes, Frank Leonard, Cidia Nañez,
Lindsey Nunes, John Moore

Compliance Specialist 2: Carolyn Kalb

Division Overview

The Agency receives complaints and determines if an investigation is appropriate. Open cases are assigned to investigators to gather facts (from interviews and documents), prepare a detailed written report and submit for Administrative Review. The Compliance Coordinators conducting the Administrative Review work evaluate whether the evidence supports a violation of Agency statutes or administrative rules. When a case finds sufficient cause to sanction a license, the case is elevated to the Commissioner for review. When the Commissioner supports a sanction, the Compliance Coordinators conduct a settlement conference to resolve cases without a contested case hearing. If the respondent requests a hearing, the Investigator works with the Assistant Attorney General in preparing for and presenting the case at hearing.

Personnel

Jeremy Brooks accepted another investigation related position outside our Agency, within the State, on 9/27/2022.

Workload and Activity Indicators

<u>Average # in this status at the time</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>Current 9/14/22</u>
Complaint	18	12	13	33	17
Investigation***	38	51	78	44	27
(# of Investigators)	7	6-7*	7	7	6
Admin Review	13	76	8	9	3
Settlement Process	50	48	6	10	4

* One investigator on medical leave, then retired. Late 2019 vacancy was filled

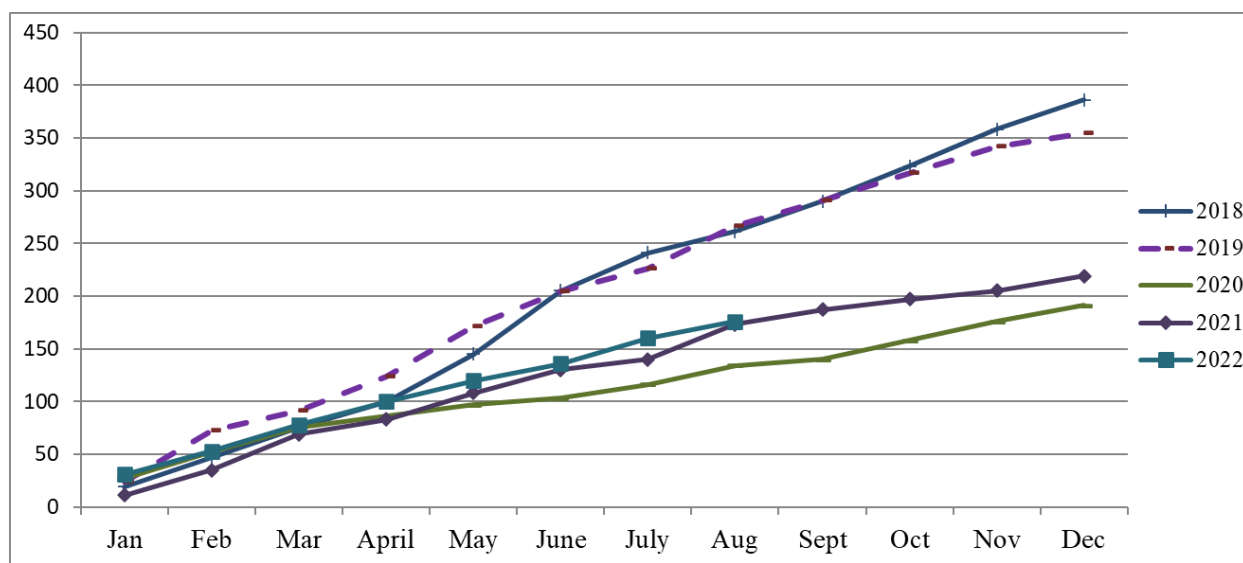
**Report to the Real Estate Board
Land Development Division
October 3rd, 2022**

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, somewhat like the owner's manual for a car.

Workload and Activity Indicators



Thru end of August 2022 the division has received 176 filings. This is just three more filings than we received thru end of August in 2021, so last year and this year are very similar. This filing volume is also on par with what we received in 2017.

Other Activity: Records Scanning and Organization

We are still working on digitizing records received from State Archives as a result of the deaccession. We received a total of 888 boxes of records. Our temporary employee has been steadily scanning and organizing those records since mid-June. To date, the agency has scanned and recycled 287 boxes of records. All of the remaining records have been stored in the conference room and are being indexed to ensure we can readily access them as needed. We won't be able to completely digitize our records before we lose our temporary employee, but we are on track with the time we have to accomplish our primary goals, which were to eliminating

the expense of storing records at Archives and creating an accessible, functional archive area within the agency office to replace use of Archives.

Rulemaking:

No rulemaking in process at this time.

Legislative Update: The agency has no bills in process at this time.

**REAL ESTATE BOARD
ADMINISTRATIVE SERVICES DIVISION REPORT
August 1, 2022**

Administrative Services Manager: Mesheal Heyman

Accountant: Caty Karayel

Systems Administrator: Tiffani Miller

Program Analyst: Rus Putintsev

Helpdesk: Denise Lewis

Section Overview

The Administrative Services Division acts as business support for the Agency overall. This division manages accounting, purchasing and contracting, inventory control, facilities, payroll, human resources, special projects, information technology (IT), performance, and communications.

Budget Update

As of the end of July, our projected revenue for the 2021-2023 biennium is about **\$10.5 million**, with projected expenses at **\$9.3 million**. Our cash balance estimate is **\$6.7 million**.

Revenue/Economic Outlook

The Agency has averaged a monthly surplus of **\$80,000** since the start of the biennium.

At the end of August, there were **24,429 licensees**. The number of monthly renewals declined slightly, but new licenses each month remain steady this calendar year.

Diversity, Equity, and Inclusion:

The Agency has submitted its draft 2023-2025 Affirmative Action/Diversity, Equity and Inclusion Plan to the Office of Cultural Change. They will be working with us on refining and finalizing the document for implementation next year..

Real Estate Agency - AY23

2021-2023 Budget - Biennium to Date Through June 30th 2023

Budget Codes		<u>21-2023 LAB</u>	<u>Expected Total Expenditures for Biennium (current)</u>	<u>Expected Remaining Limitation at end of Biennium</u>
	Total Personal Services	7,536,078	7,588,971	(52,893)
4100 & 4125	In-State Travel & Out-of-State Travel	103,008	25,630	77,378
4150	Employee Training	38,585	45,652	(7,067)
4175	Office Expenses	86,611	78,349	8,262
4200	Telecom/Tech Services & Support	67,400	74,043	(6,643)
4225	State Government Services	265,226	336,114	(70,888)
4250	Data Processing	113,997	87,999	25,998
4275	Publicity & Publications	38,297	6,652	31,645
4300 & 4315	Professional Services & IT Professional Services	196,960	185,475	11,485
4325	Attorney General Legal Fees	284,277	394,080	(109,803)
4375	Employee Recruitment	8,081	250	7,831
4400	Dues & Subscriptions	9,987	6,778	3,209
4425	Facilities Rent & Taxes	265,559	253,789	11,770
4475	Facilities Maintenance	4,713	8,492	(3,779)
4575	Agency Program Related S&S	922,042	866,520	55,522
4650	Other Services & Supplies	92,287	181,272	(88,985)
4700	Expendable Property \$250-\$5000	30,401	7,711	22,690
4715	IT Expendable Property	169,980	57,634	112,346
	Total Services & Supplies	2,697,411	2,616,439	80,972
	Totals	10,233,489	10,205,410	28,079

**REAL ESTATE BOARD
EDUCATION & LICENSING DIVISION REPORT
October 3, 2022**

Education & Licensing Manager: Madeline Alvarado
Compliance Specialist: Tami Schemmel, Nenah Darville, Katie Nash
Administrative Specialist: Elizabeth Hardwick, Kaely Salem, Rick Marsland

Division Overview

The Education and Licensing Division acts as the first point of contact for the public. This division manages reception, licensing services, compliance reviews, client trust account reviews and education.

Personnel

The Division is currently preparing to recruit from an Administrative 2 position.

Education Update

The Agency’s 2022-2023 Law and Rule Required Course, including the Fair Housing component won the ARELLO 2022 Fair Housing Award for Continuing Education.

Licensing Update

Preparing for Pre-license Education Provider renewals November 1st – December 31st.

Upcoming

Reminder: The Agency would like to remind the Board that we’re able and willing to offer the OREA Advertising Update and General Overview Class. If your brokerage or local association is interested in this course, please have them contact me for scheduling.

RBN Renewal

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>Eligible to Renew</u>	418	333	347	342	325	303	254	258				
<u>Failed to Renew</u>	14	22	15	9	18	13	12	21				
<u>% Renewed</u>	97%	93%	96%	97%	94%	96%	95%	92%				

Licensing Statistics

Total Licensee Counts by Month:

Individuals (Persons)	July-22	Aug-22
Broker – Total	18,077	18,077
Active	16,351	16,360
Inactive	1,726	1,717
Principal Broker - Total	6,361	6,352
Active	5,995	5,987
Inactive	366	365
ALL BROKERS Total	24,438	24,429
Active	22,346	22,347
Inactive	2,092	2,082
Property Manager - Total	966	961
Active	852	847
Inactive	114	114
MCC Salesperson	19	16
MCC Broker	0	0
TOTAL INDIVIDUALS	25,423	25,406
Active	23,217	23,210
Inactive	2,206	2,196
Facilities (Companies)		
REMO	4	4
Registered Business Name (RBN)	3,797	3,784
Registered Branch Office (RBO)	812	808
Escrow Organization	81	82
Escrow Branch	156	157
Condominium Filing (CO)	285	289
Unit Owners Association	871	852
Pre-License Education Provider (PEP)	26	26
CEP	299	300
MCC Operator	25	25
TOTAL FACILITIES	6,356	6,327
TOTAL INDIVIDUALS & FACILITIES	31,779	31,733

New Licenses by Month:

Individuals (Persons)	July-22	Aug-22
Broker	170	142
Principal Broker	18	12
TOTAL BROKERS	188	154
Property Manager	12	5
MCC Salesperson	1	0
MCC Broker	0	0
TOTAL INDIVIDUALS	201	159
Facilities (Companies)		
Continuing Education Provider (CEP)	2	1
REMO	0	0
Registered Business Name	30	24
Registered Branch Office	9	6
Escrow Organization	1	2
Escrow Branch	1	1
Condominium Filing	1	0
Unit Owners Association	8	8
Pre-License Ed Provider	0	0
MCC Operator	0	0
TOTAL FACILITIES	50	41
TOTAL INDIVIDUALS & FACILITIES	253	201

Exam Statistics

August 2022

ALL LICENSING EXAMS Total

Broker	448
Property Manager	27
Principal Broker	39
Reactivation	5

Pass Rates

<i><u>First Time Pass Rate</u></i> <i><u>Percentage</u></i>	<i><u>2018</u></i>	<i><u>2019</u></i>	<i><u>2020</u></i>	<i><u>2021</u></i>	<i><u>2022</u></i>
Broker State	58	57	50	47	45
Broker National	72	70	68	67	66
Principal Broker State	59	51	53	57	54
Principal Broker National	77	69	63	55	65
Property Manager	67	64	58	66	69

Oregon Real Estate Agency Education & Licensing Division
Licensee Application & Renewal 2022 Data

New Applications													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Brokers	398	336	412	318	291	292	226	268					2541
Principal Brokers	47	32	42	25	22	23	33	28					252
Property Managers	20	35	30	33	23	21	23	22					207
Total	465	403	484	376	336	336	282	318					3000

Renewal Activity														
Brokers		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
On Time	Active	491	517	535	527	608	569	559	569					4375
	Inactive	49	40	36	36	49	32	36	34					312
Late	Active	44	42	60	50	66	52	52	64					430
	Inactive	13	10	6	13	12	10	7	9					80
Lapse		128	104	123	107	120	117	131	90					920
Total		725	713	760	733	855	780	785	766					6117

Principal Brokers		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
On Time	Active	221	238	230	232	247	254	201	232					1855
	Inactive	9	8	7	8	12	11	13	10					78
Late	Active	11	10	13	13	14	9	8	11					89
	Inactive	2	1	4	1	2	1	1	2					14
Lapse		24	19	21	18	21	26	18	25					172
Total		267	276	275	272	296	301	241	280					2208

Oregon Real Estate Agency Education & Licensing Division
Licensee Application & Renewal 2022 Data

Property Managers		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
On Time	Active	28	26	25	16	35	30	34	29					223
	Inactive	2	3	1	0	2	0	2	0					10
Late	Active	3	3	1	3	3	3	3	2					21
	Inactive	1	0	0	1	1	0	1	0					4
Lapse		11	8	6	11	6	7	8	9					66
Total		45	40	33	31	47	40	48	40					324

Grand Total (Brokers, Principal Brokers, Property Managers)														
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Total Eligible to Renew		1037	1029	1068	1036	1198	1121	1074	1086					8649
On Time	Active	740	781	790	775	890	853	794	830					6453
	Inactive	60	51	44	44	63	43	51	44					400
Late	Active	58	55	74	66	83	64	63	77					540
	Inactive	16	11	10	15	15	11	9	11					98
Total Renewed		874	898	918	900	1051	971	917	962					7491
Lapse		163	131	150	136	147	150	157	124					1158

% On Time		77.1%	80.9%	78.1%	79.1%	79.5%	79.9%	78.7%	80.5%	%	%	%	%	79.2%
% Late		7.1%	6.4%	7.9%	7.8%	8.2%	6.7%	6.7%	8.1%	%	%	%	%	7.4%
% Failed to Renew(Lapsed)		15.7%	12.7%	14.0%	13.1%	12.3%	13.4%	14.6 %	11.4%	%	%	%	%	13.4%
Total		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Oregon Real Estate Agency Education & Licensing Division
Licensee Application & Renewal 2021 Data

New Applications													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Brokers	513	419	528	380	374	345	319	352	324	331	308	329	4522
Principal Brokers	43	39	49	36	34	26	30	28	43	38	33	37	436
Property Managers	20	25	18	22	31	28	25	25	30	19	22	15	280
Total	576	483	595	438	439	399	374	405	397	388	363	381	5238

Renewal Activity														
Brokers		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
On Time	Active	461	445	528	518	512	526	520	563	525	539	464	493	6094
	Inactive	27	31	30	22	30	41	37	36	49	32	41	35	411
Late	Active	54	44	45	36	30	43	36	44	56	53	45	44	530
	Inactive	11	7	11	10	12	9	11	10	10	18	16	11	136
Lapse		123	101	120	121	113	102	110	86	116	102	115	93	1302
	Total	676	628	734	707	697	721	714	739	756	744	681	676	8473

Principal Brokers		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
On Time	Active	220	189	223	225	196	238	252	239	237	207	202	226	2654
	Inactive	12	2	6	8	5	12	9	12	8	7	12	12	105
Late	Active	11	11	11	10	2	18	9	16	11	13	12	10	134
	Inactive	1	1	2	1	2	3	2	3	3	0	4	2	24
Lapse		25	18	19	28	32	23	23	17	19	16	16	21	257
	Total	269	221	261	272	237	294	295	287	278	243	246	271	3174

Oregon Real Estate Agency Education & Licensing Division
Licensee Application & Renewal 2021 Data

Property Managers		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
On Time	Active	34	29	32	29	36	33	33	33	25	26	25	34	369
	Inactive	5	2	1	1	3	0	3	1	1	2	1	1	21
Late	Active	1	0	2	0	0	1	2	2	3	0	2	2	15
	Inactive	0	1	0	1	1	0	0	0	0	0	0	0	3
Lapse		8	12	4	9	10	1	10	7	4	8	8	11	92
Total		48	44	39	40	50	35	48	43	33	36	36	48	500

Grand Total (Brokers, Principal Brokers, Property Managers)														
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Total Eligible to Renew		993	893	1034	1019	984	1050	1057	1069	1067	1023	963	995	12147
On Time	Active	715	663	783	772	744	797	805	835	787	772	691	753	9117
	Inactive	44	35	37	31	38	53	49	49	58	41	54	48	537
Late	Active	66	55	58	46	32	62	47	62	70	66	59	56	679
	Inactive	12	9	13	12	15	12	13	13	13	18	20	13	163
Total Renewed		837	762	891	861	829	924	914	959	928	897	824	870	10496
Lapse		156	131	143	158	155	126	143	110	139	126	139	125	1651

% On Time		76.4 %	78.2%	79.3%	78.8%	79.5%	81.0%	80.8%	82.7%	79.2%	79.5%	77.4%	80.5%	79.5%
% Late		7.9%	7.2%	6.9%	5.7%	4.8%	7.0%	5.7%	7.0%	7.8%	8.2%	8.2%	6.9%	6.9%
% Failed to Renew(Lapsed)		15.7%	14.7%	13.8%	15.5%	15.8%	12.0%	13.5%	10.3%	13.0%	12.3%	14.4%	12.6%	13.6%
Total		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Oregon Real Estate Agency Education & Licensing Division Phone Counts													
(minutes: seconds)	Jan – 22	Feb – 22	Mar – 22	Apr – 22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov--22	Dec-22	2022 Average
Call Count	1730	1520	1776	1510	1437	1444	1303	1510					1529
Average Wait Time	:33	:23	:45	:33	:35	:36	:42	:58					:38
Maximum Wait Time	0:20:37	0:12:03	0:26:17	0:13:25	0:10:53	0:11:15	0:11:13	0:31:05					0:17:06

Oregon Real Estate Agency Education & Licensing Division Phone Counts													
(minutes: seconds)	Jan – 21	Feb – 21	Mar – 21	Apr – 21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov--21	Dec-21	2021 Average
Call Count	1981	1801	1918	1822	1452	1886	1653	1616	1510	1477	1407	1426	1662
Average Wait Time	:51	:36	:29	:29	:24	:18	:26	:15	:19	:17	:22	:36	:27
Maximum Wait Time	0:19:17	0:10:52	0:09:59	0:10:43	0:08:58	0:06:37	0:28:56	0:06:49	0:07:45	0:04:46	0:13:37	0:19:12	0:12:18

(minutes: seconds)	Jan – 20	Feb – 20	Mar – 20	Apr – 20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov--20	Dec-20	2020 Average
Call Count	2117	1834	1830	1474	1468	1775	1875	1678	1749	1646	1593	1785	1735.3
Average Wait Time	:25	:21	:19	:23	:25	:35	:29	:26	:21	:20	:24	:29	:24.75
Maximum Wait Time	0:11:05	0:09:30	0:14:56	0:10:15	0:18:12	0:13:00	0:21:34	0:14:15	0:11:09	0:17:30	0:09:58	0:12:06	0:13:38

**REAL ESTATE BOARD
COMPLIANCE DIVISION REPORT
October 3, 2022**

Compliance Specialists 3 (Client Trust Account Coordinator): Liz Hayes

Compliance Specialist 2: Jen Wetherbee

Compliance Specialist 1: Roger McComas

Division Overview

The Compliance Division ensures that licensees meet their fiduciary and administrative responsibilities by reviewing financial and administrative records. This division aims to conduct clients' trust account and compliance reviews and develop other compliance-related programs. This work includes providing technical assistance and sharing knowledge on the interpretation and application of laws and rules administered by the Agency (excluding legal advice) to licensees, the public, and other governmental agencies.

Workload and Activity Indicators

	2014	2015	2016	2017	2018	2019	2020	2021
ELOA	3	2	2	4	44	79	81	13
No Violation	351	356	192	172	375	216	87	10
Open Investigation	14	5	3	8	10	29	7	2
Total Closed	368	363	197	184	429	324	175	25

(# of Staff)	3	4	4	4	5	6	6	1
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2022	February	March	April	May	June	July	August
ELOA	3	1	4	5	6	5	7
No Violation	10	1	2	2	4	4	10
Open Investigation	2	0	2	0	0	3	2
Resolved	0	0	1	4	8	8	8
Total Closed	15	2	9	11	18	20	27

(# of Staff)	0.5*	0.5*	1	1	1	2**	2
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* 1 staff working 20 hours a week in Compliance Division

** 2nd staff hired 7/11/2022