



Oregon Real Estate News-Journal

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EDUCATION AND CONTINUING EDUCATION

Scott W. Taylor, Real Estate Commissioner

Over the past several months, I have heard a lot of interest expressed by licensees about the continuing education offerings in Oregon. Most recently, during the public meetings throughout the state regarding the rules implementing House Bill 2604, several individuals indicated a desire that the Agency get more involved in education. Some individuals desire the Agency to increase the quality and variety of course offerings that would enhance the value of continuing education for licensees. In markets away from the major population centers, quality courses are not always available to many practitioners. In response to the interest in the subject, we are looking for ways to better serve these markets.

BACKGROUND

In 1983, legislation was passed which changed continuing education course approval authority from the Real Estate Agency to brokers. It also changed the required course hours from 24 for all licensees to 24 hours for the first three renewals, then 12 hours for salespersons, and eliminated continuing education requirements for brokers.

In 1995, legislation was passed amending ORS 696, which increased the number of continuing education hours required to 30 for each licensing period, made continuing education once again mandatory for all licensees, and split the continuing education hours into required course topics and elective topics. It also gave the Agency authority to determine required course topics with input from the licensee community. Course approval remained with brokers. In 2001, Senate Bill 446 gave the Agency the authority to promulgate rules for brokers regarding course approval, and also provided that new licensees complete an advance practices course prior to their first active license renewal (*Ed. note: See Course Required for New, Relicensed Brokers, pg. 3, for more information*). Oregon is the only state where principal brokers approve continuing education courses for themselves and their affiliated licensees. Sole practitioner brokers and property managers also self-certify completion of continuing education. Some abuses have been reported to me concerning certifying completed courses and the declared length of those courses.



Commissioner Scott Taylor

THE REAL ESTATE AGENCY WANTS YOUR INPUT

I want to begin a dialogue between the Agency and licensees that addresses this subject. There are a number of issues worthy of discussion including:

- Are the required topic areas in need of review and change?
- Are the Advanced Real Estate Practice courses appropriate and meeting the need?

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- Should the Real Estate Agency be approving continuing education courses?
- Should the Real Estate Agency be approving continuing education providers/instructors?
- Should the Real Estate Agency develop and provide more continuing education courses itself?
- If the Agency does develop and provide more continuing education courses, should these courses be live, Internet-based, or other media?
- Should the type of courses that should be approved for continuing education be better articulated?

- Should the current minimum length of one hour for continuing education courses be changed?
- Should the Real Estate Agency be conducting more educational compliance reviews of brokerage and property management firms? If so, what is the desired average frequency of these reviews?

This list is by no means inclusive, nor is it meant to suggest a direction the Agency might be headed. It is simply meant to stimulate thought and solicit input.

The Real Estate Agency is interested in hearing from licensees about their interests on continuing educa-

tion. If you have comments or suggestions, please submit them to the Agency via e-mail, Orea.Info@state.or.us, or to the following address:

Scott Taylor
Commissioner
Oregon Real Estate Agency
1177 Center Street NE
Salem, Oregon 97301-2505

If you are interested in participating in discussions regarding this subject please submit your name, address, phone number and business affiliation at the e-mail or street address listed above.

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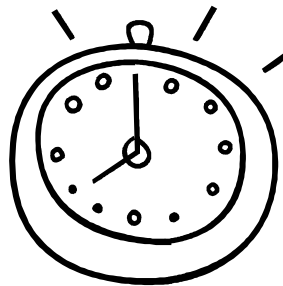
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WANT TO HAVE YOUR LICENSE ISSUED MORE QUICKLY?

What is the secret to have a license issued (or renewed, transferred, changed) quickly? It is simple: Use the proper form, make sure the form is complete including all necessary signatures, include any required documents, and ensure proper payment is enclosed (if paying by check it must be for the correct amount, signed and made payable to the Real Estate Agency). Additionally, sending all documents, forms and payment in one package will also help expedite your transaction.

We encourage submitting Background Check Applications early, as they can take two to three months to process. If there is an issue which requires review and further investigation, it will take even longer to complete the process. Background Check Applications are considered incomplete if all the required documentation (e.g. detailed written explanation, employment history, reference letters, official documents) are not included, which further delays the process until the required documentation is submitted.

Please help us to better serve you by following the above steps. If you have any questions, call the Licensing Section at (503) 378-4170, selection 0.

This article is adapted from an article published by the State of Alabama Real Estate Commission and was republished from the October 2005 OREN-J.

NEW ADMINISTRATIVE RULES TO BECOME EFFECTIVE JANUARY 1

On December 23 the Agency held a public rulemaking hearing on proposed rules to implement House Bill 2604. The rules cover disputed clients' trust account funds, investigative procedures, and progressive discipline of licensees. After all comments are considered, the Agency will adopt the resulting rules. The Agency will file the rules with the Secretary of State by December 31, 2005.

The Agency used a collaborative rulemaking process in developing the rules. It held a series of public meetings in November, included the topic

in the Real Estate Board agenda, and collaborated with an Oregon Association of Realtors® taskforce.

The final rules become effective January 1, 2006, and will be available on the Agency's website (www.rea.state.or.us) at that time. The rules will also be available through the Secretary of State's office February 1, 2006 either in paper format by calling (503) 373-0701, or through the SOS website at <http://arcweb.sos.state.or.us>, by clicking on "Administrative Rules" then "Current Bulletin."

COURSE REQUIRED FOR NEW, RELICENSED BROKERS

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

- received your very first Oregon broker license after July 1, 2002; or
- let a previous Oregon license expire (or otherwise lapse) and obtained a new broker license after July 1, 2002.

The AP course is a specific 30-hour course that must be completed before your first active license renewal. Your first license is valid from the date of issue for one year and then onto the last day of the month of your birthday. This means your first renewal date may be less than 13 months after obtaining your license. For example, if your first license was issued in October 2005, and your birthday is in November, your license would renew November 30, 2006.

If your license is inactive at the time of renewal, you do not need to take the AP course until you reactivate your license.

Principal brokers, sole practitioner brokers and property managers are

not required to take the AP course.

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

If you do not know if you must take the AP course, please call the Licensing Division at (503) 378-4170, extension 0.

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

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



RECEIVE RULE NOTICES BY MAIL OR E-MAIL

The *OREN-J's* publication schedule does not always provide for timely notification of changes to the Agency's administrative rules. The Agency has a rulemaking mailing list, and is creating a new e-mail list.

The Agency encourages anyone interested in receiving notices to send a postcard to the Agency with your name, address, e-mail address, and your preference for regular mail or e-mail notification. You may also provide this information by e-mail to Administrative Rules Coordinator Laurie Skillman at laurie.a.skillman@state.or.us.

AGENCY WELCOMES NEW MANAGER

Laurie Skillman was selected in October to fill the Land Development Manager vacancy. Ms. Skillman's responsibilities include reviewing and approving filings for condominiums, timeshares, subdivisions and campgrounds; and coordinating the Agency's administrative rules. Laurie is an attorney, and came to the Agency from the Building Codes Division where she served as Manager of Enforcement and Licensing for two years. She also has experience as the state securities administrator, an administrative law judge, a mediator, an investment banker, and a real estate salesperson. The Agency welcomes Ms. Skillman.

ONLINE RENEWAL AVAILABILITY DELAYED

The Agency has postponed until later in 2006 an upgrade to its computer system that will allow for online renewal of licenses. Please check out our website at www.rea.state.or.us, as well as future *OREN-J's*, for more information as it becomes available.

CONTINUING EDUCATION REQUIREMENTS

Editor's Note: The following was adapted from the Agency's Continuing Education Requirements for Oregon Real Estate Licensees brochure. For the complete text, please visit www.rea.state.or.us, or fill out and mail the Publication Order Form from page 4.

All real estate licensees (principal brokers, associate brokers, brokers and property managers) renewing an active license must complete at least 30 hours of continuing education during the preceding two license years, as stated in ORS 696.174. At least 15 hours must be in one or more of the required topics as determined by the Oregon Real Estate Commissioner and set forth in OAR 863-015-0055.

The Oregon Real Estate Agency does not approve continuing education courses. Continuing education is approved by the certifying licensee. A "certifying licensee" is a principal broker who signs a statement on the Agency's license renewal form that an affiliated licensee has completed the required continuing education. Principal brokers, sole practitioner brokers and sole practitioner property managers self-certify their own continuing education.

When a licensee completes a course, the Certificate of Attendance is given to the certifying licensee to be signed. [Copies of the form may be obtained by calling (503) 378-4170, selection 2, or by visiting our website at www.rea.state.or.us.] Certifying licensees then retain the Certificates of Attendance for six years as prescribed by ORS 696.280(2) and (3). The Agency recommends that licensees keep their own copies of certificates.

When a licensee renews a license, the certifying licensee signs the renewal form stating that the required continuing education has been completed. **Do not send Certificates of Attendance to the Agency.**

If you received your very first Oregon broker license after July 1, 2002, or let a previous Oregon license expire (or otherwise lapse) and obtained a new broker license after July 1, 2002, you have additional course requirements. See "Course Required for New, Relicensed Brokers," page 3.

COURSES

Length - Courses must be a minimum of one clock hour. Clock hours are measured in 60-minute increments, exclusive of meal or rest breaks.

Course requirements - Oregon Real Estate License Law states that continuing education must be "real estate-oriented," and include at least 15 hours in required topics developed by the Commissioner. The term "real estate-oriented" is defined by the certifying licensee; however, **courses related to personal skills such as time management, and routine meetings and luncheons cannot be considered real estate-oriented.**

Licensees are encouraged to discuss the acceptability of a course with their certifying licensee prior to taking a course.

With approval from the certifying licensee, Agency-approved post-license courses can meet continuing education requirements. These courses include Associate Broker Transition, Property Manager Transition, Brokerage Administration and Sales Supervision and Advanced Real Estate Practices.

Required Topics - Renewing licensees must complete a minimum of 15 hours of continuing education in required topics. Licensees may choose from topics on the list, taking a few hours in each topic, 15 hours in just one topic, or all 30 hours in required course topics. The certifying licensee determines what topic or topics a course covers, and how many hours can be certified. The required topics are:

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

Format of Courses - Courses are available in many formats: traditional classroom, correspondence, audio or video tape, CD-ROM, internet, etc.

Out-of-State Courses - A certifying licensee may approve continuing education courses completed outside of Oregon, but only for content related to the practice of real estate in Oregon.

COURSE AVAILABILITY

The following is a list of possible sources of continuing education to assist licensees in meeting their license renewal requirements. The Agency does not maintain a list of available courses; this information is offered to provide a basis by which a licensee can begin their own search. This list is by no means complete, nor is it a guarantee of course availability. The Agency advises licensees to consult with their certifying licensee prior to taking any course.

- Real estate schools (www.rea.state.or.us/REA/EDU/docs/Approved_School_Chart.pdf)
- Community colleges
- Multiple listing services
- Title companies
- National Association of Realtors and its state and local boards
- Association of Real Estate License Law Officials (www.arello.org)

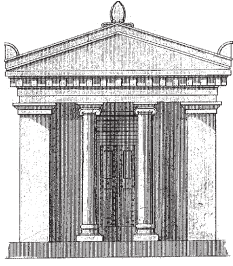
EXEMPTIONS

Inactive Licenses - Licensees renewing an inactive license are exempt from the continuing education requirements. However, to reactivate an inactive license, the licensee must complete 30 hours of continuing education within the two years prior to reactivation. (The Advanced Real Estate Practices course may be required if activating your license for the first time. See "Course Required for New, Relicensed Brokers," page 3.)

Medical Exemption - The Commissioner may waive the continuing education requirements for a licensee who submits satisfactory evidence of the inability to attend such courses because of health circumstances.

ADMINISTRATIVE ACTIONS

September 1, 2005 through November 30, 2005



The Agency is required by Oregon Real Estate License Law to publish disciplinary actions. A list of those actions, a brief description of the situation, and the grounds for

the Commissioner's action follows. Please note there are 60 days after the order date to file an appeal, and some of the orders listed may be within that appeal period. Please also note, there are individuals with real estate licenses that may have similar or the same names as those listed herein, or even work in the same market area. If you are in doubt if an individual listed here is someone you know or with whom you are dealing, please contact the Agency for verification.

Finally, please note that stipulated settlements do not necessarily reflect all the factual violations initially alleged by the Agency, and the sanction(s) may have been adjusted as part of the negotiation process. Such settlements may not, therefore, directly compare in severity/sanction with other cases.

REVOCATIONS

Larimer, Steven D. (Portland) Broker #910100074
Stipulated order dated November 1, 2005 effective November 1, 2005. While licensed as a salesperson and temporary associate broker with a brokerage, Larimer took six listings that he did not provide to his principal broker. Larimer then had those listings terminated with that brokerage and relisted the same properties with his new brokerage. Larimer destroyed the listings and terminations from his prior brokerage and his principal broker was never aware of them. However, multiple listing records document the activity. Larimer became a principal broker with the new brokerage. One of his broker's licenses expired and his broker was inactive for a period of time. While the broker's license was inactive, he continued conducting professional real estate activity as if actively licensed. Larimer advised the Agency that the

broker with the expired license did not conduct any professional real estate activity while he was inactive. However, transaction documentation indicates that he did and that Larimer was aware of it. Violations: ORS 696.301(28), (29) and (31)

Miller, Michael L. (Neskowin) Membership Camping Contract Salesperson #200406116
Hearing order dated November 10, 2005 effective November 21, 2005. On June 1, 2004, Miller completed an application for a membership camping contract salesperson registration. Miller answered "no" to a question asking whether, within the past five years, he had been convicted of any misdemeanor or felony involving theft, or had been found to have engaged in any violation of any law designed to protect consumers. Based on Miller's representations, Miller was issued a registration. After Miller's registration was issued, the Agency discovered that Miller had been convicted of Theft in the Third Degree in Washington on September 22, 1999. Miller had been selling memberships in campgrounds for a resort located in Washington in 1999. In late August or early September 1999, Miller sold a campground membership to a couple for \$1,250. Miller failed to deliver the membership documents to the couple, absconded with the money, and quit his job a few days later. Miller entered a guilty plea to a reduced charge of Theft in the Third Degree. The court imposed, as a sentence, one year in jail, suspended all but seven days and gave Miller credit for time he had served in jail, ordered him to make restitution to the victims in the amount of \$1,250, and placed him on probation for two years. Miller has failed to make the restitution as of September 19, 2005. Violation: ORS 94.980(3) and (3)(a)

Zero, Meredith A. (Portland) Broker #200105035
Default order dated October 14, 2005

effective October 14, 2005. Zero listed property for Seller A. On August 25, 2003, Seller A accepted an offer from Buyer B for \$136,000. On September 13, 2003, Seller A accepted an offer from Buyer S for \$142,500 on the same property. Zero failed to include language in Buyer S's offer to indicate it was in a back-up position. After Seller S's offer was accepted, Zero notified Seller S's agent that there were two lien holders with more than \$160,000 owed on the property and that there was a previous accepted offer on the property. The property was eventually sold to Buyer B. An addendum was found in the transaction file that indicated that Buyer S's offer was in a back-up position. Buyer S did not know of, or sign the addendum and his signature appears to have been attached by Zero using a cut and paste technique. Violation: ORS 696.301(31)

SUSPENSIONS

Allen, Danny R. (Klamath Falls) Broker #830400037
Stipulated order dated October 14, 2005 resulting in a 60-day suspension effective October 15, 2005. Allen took a listing from Seller H on June 8, 2004 for \$135,000. In September 2004, Allen submitted an advertisement to a monthly real estate magazine at a price of \$125,000. On October 1, 2004, Allen entered a price change in MLS lowering the listed price to \$125,000. Allen reduced the price on Seller H's listing without the knowledge and consent of Seller H. Seller H became aware of the reduced list price on or about October 12, 2004 when she received an offer for \$119,000. Allen told her she could reject the offer but not counter at \$132,000, because he had reduced the price to \$125,000 and it had been advertised as such. Seller H countered the offer at \$125,000, which was accepted, and the transaction closed. Violation: ORS 696.301(17)

Beaudro, Richard G. (Florence) Broker #970500222

Stipulated order dated November 29, 2005 resulting in a 30-day suspension effective December 2, 2005. Beaudro worked with two parties who were in the process of buying bare lots for the purpose of building a house and then reselling the property. Party P contracted to purchase the lots. At closing, in most cases, Party T actually funded and took title to the properties. Beaudro then listed and advertised the properties. Two listings were signed by Party P, even though Beaudro was aware that Party T was actually the owner. Beaudro had no documented authorization for Party P to sign the listings. Beaudro worked with Buyer G to purchase a property. Beaudro introduced Buyer G to Party P. Beaudro was aware that Party P had been previously licensed by CCB, but did not confirm that Party P was licensed as a contractor in Oregon before making the representation to Buyer G. Beaudro wrote an earnest money agreement for Buyer G to purchase a property to have a house built on from Party P. Beaudro represented both Party P and Buyer G in the purchase. Buyer G provided earnest money, which was given to Party P, however the seller acceptance portion of the contract was not signed for approximately 4 months after the earnest money was given to Party P. During the purchase, Beaudro failed to return some phone calls from Buyer G and did not attend closing, leaving Buyer G without adequate representation. Violations: OAR 863-015-0125(6), ORS 696.301(28), and 696.810(3)(a)

Bouhey, Georges M (Bend) Broker #910800094

Stipulated order dated October 10, 2005 resulting in a 30 day suspension effective October 21, 2005. Bouhey wrote an offer for buyers C & M to purchase a property that Bouhey himself owned. Part of the terms of the offer were that Bouhey was to provide the buyers with a clean pest and dry rot inspection report prior to closing. The final agency acknowledgement shows Bouhey as the selling licensee only and there is no representation for

buyers C & M. Bouhey countered the offer which was accepted. On the same day, Bouhey wrote an addendum which changed the transaction from a sale to a lease/option. Buyers C & M agreed to the lease agreement with the option to purchase the property under the terms of the earnest money agreement. Four days after the addendum changing to a lease/option, Bouhey completed a Buyer's Agency Disclosure Acknowledgement disclosing Bouhey as the buyer's agent only. By becoming the buyer's agent as well as being the owner/seller of the property, Bouhey created a conflict of interest. Bouhey did not disclose the conflict of interest in writing. Bouhey believed he was the seller's agent only, but his actions during the transaction led buyers C & M to believe that Bouhey was representing both seller and buyers. Bouhey was required to have written consent from both the seller and buyer to this representation with a disclosed limited agency agreement prior to entering into a contract to purchase. This was not done. Had Bouhey completed this form, there would have been no undisclosed conflict of interest. If C & M exercised the lease/option, the cleaning, security deposits and pre-paid lease amounts became earnest money. C & M were then responsible for any lender required repairs. C & M gave Bouhey notice that they intended to exercise the lease/option. Bouhey did not provide a clean pest and dry rot inspection report. C & M requested the return of their earnest money and moved out of the property and a dispute developed regarding the earnest money. The property was subsequently sold to other buyers. During the investigation, the Agency discovered that Bouhey had not turned in his transaction documentation to his principal broker, and that Bouhey had not provided a Lead Base Paint Disclosure for the home, which was built in 1947. Bouhey also did not provide a Property Disclosure or Disclaimer. Violations: ORS 696.815(2)(b), (5)(a); OAR 863-015-0145(3); and ORS 696.870(1)(b)

Jensen, Albert F. (Lakeside) Broker #890600266

Hearing order dated September 22, 2005 resulting in a 90 day suspension effective October 14, 2005. In 1989 and 1990, Jensen purchased 41 acres of land in Lakeland, Oregon which became known as Lakeland Estates. Jensen formed Lakeland Estates as the developer of the planned community and Lakeland Development, Inc. (real estate company) to sell the lots. Jensen developed and operated Lakeland Estates from about 1989 until October 2001 when he lost ownership of the property due to financial problems. Jensen continued to sell lots and manufactured homes for the owner. Jensen got the property back in October 2003 and continued to sell lots and homes. Jensen continued to experience financial problems and has been unable to get Lakeland Estates developed to the level he would like to. In the early 1990's, Jensen started a campaign to advertise Lakeland Estates to the public in order to generate sales. Jensen had a professionally designed tri-fold brochure created about 1991 with written text and pictures on both sides of the paper. Jensen wrote the text for the brochure. The brochure stated that Lakeland Estates was a gate-guarded, planned unit development for manufactured homes. The Brochure also states that amenities include a club house, swimming pool and tennis courts. Another portion of the brochure states that an electric gate at the entrance will provide restricted entrance to the premises. Jensen distributed the brochure throughout the office and other buildings at Lakeland Estates, as well as to real estate offices and other businesses along the south Oregon Coast. The security feature attracted buyers. Lakeland Estates had no security gate installed or operating at the entrance to the premises in 1991, or at any time up through December 2004, when the complaint was filed with the Agency. In addition to the initial flyer, Jensen has run ads in the Pacific Coast Real Estate Guide and he had made an additional flyer both of

ADMINISTRATIVE ACTIONS: *continued on page 8*

ADMINISTRATIVE ACTIONS: *continued from page 7* which advertise the non-existent electric gate, clubhouse, swimming pool and tennis courts. Violation: ORS 696.301(6)

Kirstein, Gerald L. (Medford)
Broker #800200071

Stipulated order dated September 12, 2005 resulting in a four-month suspension effective September 30, 2005. In March 2004, Kirstein took a six month listing for property in Shady Cove, Oregon. At the time he took the listing, Kirstein informed the owners that if they were unhappy working with him, that he would release the listing. Kirstein submitted the listing to MLS, he produced flyers, and he advertised in the newspaper. The information Kirstein used in the three methods of advertising was inaccurate. The owners contacted Kirstein and informed Kirstein that the listing information was inaccurate. Kirstein continued to use the inaccurate information. In May 2004, the owners requested the listing be cancelled. Kirstein agreed to release the owners from the listing. The owners went to another real estate brokerage and listed their property. When contacted by the principal broker of the new brokerage, Kirstein stated that he would not cancel the listing. The new brokerage cancelled the listing with the owners, removed signs and lockbox as Kirstein's listing had not been cancelled. The owners filed a law suit to have Kirstein's listing cancelled. After the listing expired, the owners sold the property. The owners also complained that they had not been provided with an Initial Agency Disclosure, Agency Disclosure Pamphlet, Seller's Disclosure, Smoke Alarm Disclosure or Siding Disclosure. During the listing, it was determined that Kirstein was using a Mailboxes Etc. address for his business address, which was not even changed upon his license renewal. It was also noted that Kirstein was using a registered business name, Pacific Northwest Commercial Investments Real Estate, that had lapsed with the Secretary of State and was subsequently registered by someone else.

Violations: ORS 696.301(1), ORS 696.805(2)(a), ORS 696.301(31), OAR 863-015-0125(3), OAR 863-015-0125(4)(b), OAR 863-015-0095, ORS 696.301(1), and ORS 696.200(1)

Mignano, Susanah M. (Medford)
Broker #200008180

Stipulated order dated October 14, 2005 resulting in a 45-day suspension effective December 5, 2005. On August 9, 2003, Buyer B made an offer on property in Medford, Oregon through Mignano. The subject property was owned by another broker licensed with the same brokerage as Mignano. The offer was countered and the counter was signed by Buyer B on August 12, 2003. Mignano advised Buyer B that she was planning to move her license to a new brokerage. Buyer B was interested in continuing to work with Mignano. Mignano discussed the situation with Broker P at the brokerage where Mignano was moving her license. As a result, Mignano had Buyer B terminate his transaction with seller and re-write it with Broker P at Mignano's new brokerage, until she could get her license transferred. Violation: ORS 696.301(16)

Smith, Edwin W. (Gresham)
Broker #930600268

Stipulated order dated November 21, 2005 resulting in a 30-day suspension effective December 9, 2005. Buyer B agreed to purchase a manufactured home-land package and entered into a sales agreement for a lot purchase in which Smith acted as real estate agent, and a contract for a manufactured home purchase in which Smith acted on behalf of the seller. The earnest money agreement was for a purchase price of \$40,000 and called for the earnest money to be deposited in escrow. The earnest money check was made payable to the manufactured home dealer, Smith cashed the check and reissued it to the seller. The agency acknowledgement portion of the earnest money agreement shows Smith as agent for both seller and buyer. However, Smith did not prepare a Disclosed

Limited Agency Agreement. Smith, acting for the manufactured home dealer, signed a Proposal and Contract which superseded all previous contracts. In the payment portion of the contract it stated, "Owner agrees to pay Contractor a total cash price of \$84,725.00 for the home and all improvements including the land. Payment in full has been received." The contract language was construed by the buyer to mean the total home and land price was \$84,725 when the real price was \$124,725. Violations: ORS 696.301(20), OAR 863-015-0210(1), and OAR 863-015-0135(5)

REPRIMANDS

Coop, Cynthia A. (Cottage Grove)
Broker #791200051

Stipulated order dated September 23, 2005. Coop took a listing from seller for \$125,000. A few weeks after the listing was taken, the price was reduced to \$120,000. The property did not sell and the listing expired. After the listing expired, Coop continued to market the property as if the listing was active. A few weeks after the listing expired, Coop had a flyer in the brokerage window advertising the subject property at the original listing price of \$125,000. Violations: ORS 696.301(17) and OAR 863-015-0125(5)(b)

Kelley, Dennis P. (Portland)
Broker #900100132

Stipulated order dated November 3, 2005. Kelley represented Buyer D. On October 24, 2004, Buyer D signed an earnest money agreement to purchase property from Seller E. Buyer D accepted Seller E's counter offer on October 26, 2004. The \$2,000 earnest money was in the form of a promissory note which was due and payable one day after acceptance, or October 27, 2004. On October 27, 2004, Buyer D learned he did not qualify for a loan from his original lender. Kelley verbally communicated Buyer D's failure to obtain loan approval to Seller E's broker. With Kelley's approval, Seller E's broker referred Buyer D to another mortgage broker, however no financing was

accomplished. Kelley did not redeem the promissory note, nor did he turn it over to his principal broker. Kelley did not communicate to Buyer E's agent that the promissory note had not been redeemed. Kelley left the promissory note in his personal file relating to the transaction. Violation: OAR 863-015-0255(2)

Kim, Byung J. (Portland) Broker #780403812

Stipulated order dated November 7, 2005. Kim is the principal broker for Realty Resources NW, which deals primarily in commercial property. One of Kim's brokers assisted clients with a lease agreement. The lessees wrote a check for first and last months rent, security deposit and cleaning fees for \$3,700. Kim did not have a clients' trust account, so he deposited it into his general operating account. Kim deducted his commission, per agreement, and the cleaning fee and wrote a check to the lessor for the balance. Violation: ORS 696.241(1)

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

Stipulated order dated October 27, 2005. In December 2003, Owner S entered into a property management agreement with Mitzel to manage Owner S's property. Mitzel had an agreement with Owner S to video the property condition before allowing a renter to move in. Mitzel did not document the property condition by video or property condition checklist before a renter moved into the property. After the tenant moved from the property in July 2004, Owner S requested Mitzel perform a final property condition inspection of the property. This was not done. Owner S documented damage and repairs needed upon her return to the property. Violation: OAR 863-025-0015(1)(a)

McClarnan, Joseph H. (Albany) Principal Broker #780303155

Stipulated order dated November 14, 2005. McClarnan was the principal broker for Moore herein. McClarnan had a duty to ensure that the \$500

earnest money note was redeemed timely and accounted for properly. McClarnan did not assure that the \$500 earnest money documentation trail was set out. Violation: OAR 863-015-0255(11)

Moore, Judith A. (Albany) Broker #890600158

Stipulated order dated November 14, 2005. Moore was the listing broker on property in Lebanon. Moore prepared an offer to purchase the Lebanon property for an undisclosed buyer for the listing price. The offer was accepted. The offer included \$500 earnest money in the form of a promissory note that was to be payable upon acceptance of the offer. Broker instructions to escrow show the note was retained at the brokerage and would be forwarded when redeemed. The promissory note was never redeemed. After the transaction failed, the termination form indicated that the \$500 earnest money was held in the brokerage clients' trust account. The earnest money was not held in the brokerage clients' trust account. Violation: ORS 696.301(1)

Smith, Darin L. (Salem) Broker #861100065

Stipulated order dated November 10, 2005. Smith represented Buyers A in the purchase of property in Monmouth. The offer was dated July 10, 2004 but Smith did not give the earnest money check to his principal broker until July 26, 2004. Several addendums were executed by the parties. Addendum A, signed by all parties, called for seller to remove all debris and personal property by close of escrow. Addendum F, signed by the sellers, called for sellers to have up to 45 days from close of escrow to remove remaining debris and old mobile home from the property. Buyer A added to Addendum F that \$3,500 was to remain in escrow for 60 days or until the old mobile home and debris were removed. Buyer A also added to Addendum F that if after 60 days cleanup was not done, the buyer was to receive the \$3,500 to cover cleanup expenses. The sellers rejected the additional lan-

guage added by Buyer A to Addendum F. Smith verbally advised Buyer A of the rejection but did not provide Buyer A with a copy of the addendum. Two months after the transaction closed, Buyer A contacted the escrow company to obtain the \$3,500 held for cleanup. Buyer A learned there was no money being held. A dispute arose between the parties, the seller deposited the \$3,500, which was returned to them after the cleanup was completed. Smith failed to provide his principal broker with Addendums D and E in the transaction. Violations: OAR 863-015-0255(2) and OAR 863-015-0135(2)

CIVIL PENALTIES

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

Stipulated order dated November 18, 2005 levying a \$3,000 civil penalty. Abstract & Title failed to submit required financial information to the Agency within 120 days of its tax or accounting year end. Violation: OAR 863-050-0150(2)

Bradford, Steven J. (St. Helens) Broker #990700140

Stipulated order dated November 16, 2005 levying a \$2,100 civil penalty. Bradford failed to renew his real estate license for a period of time while continuing to conduct professional real estate activity. Violation: OAR 863-15-0050(2)

Diaz, John W. (Grants Pass) Broker #200205070

Stipulated order dated October 6, 2005 levying a \$600 civil penalty. Diaz failed to renew his real estate license for a period of time while continuing to conduct professional real estate activity. Violation: OAR 863-15-0050(2)

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

Stipulated order dated September 9, 2005 levying a \$1,000 civil penalty. On June 24, 2004, both seller and

ADMINISTRATIVE ACTIONS: *continued on page 10*

ADMINISTRATIVE ACTIONS: *continued from page 9* buyer signed escrow instructions and approved settlement statements. Seller executed a warranty deed in buyer's favor depositing it in escrow. Buyer's funds were to be wired the following day. The following day, buyer contacted Fidelity to request recordation of the deed as he had received confirmation that the funds had been wired. Fidelity was unable to confirm the wire transfer. Fidelity recorded the deed prior to receiving confirmation that the buyer's funds had been received. Violation: OAR 863-050-0015

First American Title Insurance Company of Oregon (Portland) Escrow Agent #850600257 Stipulated order dated September 2, 2005 levying a \$40,000 civil penalty. An Agency audit was conducted in June of 2004 which revealed the following: (a) there were 22 instances where First American failed to notify principals of failure and/or difficulty in transferring title to manufactured homes in a timely manner; (b) First American took escrow fees when not in a position to close escrow in 22 instances; (c) First American failed to remit funds to the rightful recipient in a timely manner in 51 instances; (d) First American failed to maintain funds on deposit in a trust account through uncovered loss or negative escrow accounts in 80 instances; and (e) First American failed to promptly clear reconciling items in the reconciliation of escrow trust accounts in numerous instances. Violations: ORS 696.535(1)(g), OAR 863-050-0055(2), ORS 696.535(1)(h), ORS 696.578(1), and OAR 863-050-0050(2)(f)

First American Title Insurance Company of Oregon (Portland) Escrow Agent #850600257 Stipulated order dated October 17, 2005 levying a \$1,000 civil penalty. In January 2003, an escrow was opened at the First American's Keizer branch office for a purchase. The property included a mobile home, which was so indicated in the preliminary title re-

port (PTR) in three different areas. The PTR also indicated the property contained three separate tax lots. The closing instructions and settlement statements did not include any reference to a mobile home or instructions to transfer title. The settlement statements do not separate the three tax lots for tax purposes. The deed was transferred and funds were disbursed on March 10, 2003. In November 2003, the buyers notified First American that the mobile home was still in the seller's name. In November 2004, the buyers again notified First American that the mobile home was still in the seller's name. In December 2004, First American advised the buyer that they could not process the title transfer until the property taxes were paid in full. In February 2005, the buyer paid the property taxes at the same time First American paid the taxes. The buyer requested the overpayment be refunded to First American. The title was successfully transferred in March 2005. Violations: ORS 696.581(2), ORS 696.535(1)(h), OAR 863-050-0055(5), and OAR 863-050-0025

Larson, Anita J. (Bend) Broker #940500024 Stipulated order dated November 1, 2005 levying a \$600 civil penalty. Larson failed to renew her real estate license for a period of time while continuing to conduct professional real estate activity. Violation: OAR 863-15-0050(2)

McJunkin, Sarid (Eugene) Broker #200304216 Stipulated order dated November 15, 2005 levying a \$100 civil penalty. McJunkin failed to renew her real estate license for a period of time while continuing to conduct professional real estate activity. Violation: OAR 863-15-0050(2)

Nekotani, Patricia D. (Ashland) Broker #200309092 Default order dated November 10, 2005 levying a \$600 civil penalty. Nekotani failed to renew her real estate license for a period of time while

continuing to conduct professional real estate activity. Violation: OAR 863-15-0050(2)

Scalf, Lauren M. (Florence) Broker #200108170 Stipulated order dated October 3, 2005 levying a \$100 civil penalty. Scalf failed to her renew real estate license for a period of time while continuing to conduct professional real estate activity. Violation: OAR 863-15-0050(2)

Shannon, Timothy C. (Portland) Broker #890800048 Stipulated order dated November 21, 2005 levying a \$100 civil penalty. Shannon failed to renew his real estate license for a period of time while continuing to conduct professional real estate activity. Violation: OAR 863-15-0050(2)

Stewart Title of Oregon, Inc. (Portland) Escrow Agent #991100004 Stipulated order dated October 14, 2005 levying a \$3,000 civil penalty. Borrower E opened an escrow for the refinance of their home. The escrow instructions stated that the proceeds were to be wired to the borrower's bank account. The loan funded on May 18, 2004 but the funds were received too late in the day for same-day wire-out to the borrower's bank account. Stewart Title received a phone call from borrower E directing Stewart Title to send only half the proceeds as previously instructed and to write the other half to an investment account in the borrower's name, and that new wiring instructions would follow. Although new wiring instructions were not received, Stewart Title wired half the borrower's net proceeds to the investment account. The money wired to the investment account is gone and the owner of the investment company faces fraud charges. Violation: OAR 863-050-0055(4)

Stewart Title of Oregon, Inc. (Portland) Escrow Agent #991100004 Stipulated order dated October 25, 2005 levying a \$900 civil penalty. Bor-

rower G opened an escrow for the refinancing of her home. The escrow instructions stated that the proceeds were to be wired to the borrower's credit union account. The escrow closed on June 4, 2004 and a check for the proceeds was mailed to the borrower instead of being wired into her credit union account. Assuming that the proceeds had been wired to her credit union account, Borrower G issued checks on her account, several of which were returned for insufficient funds. When Borrower G was notified that her checks were being returned, she contacted Stewart Title. Stewart Title also discovered that the wrong address for the borrower was used to mail the proceeds check. On June 10, 2004, the funds were wired to the credit union account. Also, the Final Closing Statement and Final HUD Settlement Statement were found in the escrow file. They were not provided to Borrower G. The final statements showed a \$50 Government Service Fee that was not included in the estimated statements. The final statements also showed a different net proceeds figure due to an updated loan pay off which included additional interest, a late fee, increased fax fee and a slight adjustment in pro-rata MIP fee. Violations: ORS 696.581(2),

OAR 863-050-0055(4), and OAR 863-050-0025(1)

Thompson, Terrence E. (Salem) Broker #200106146
 Stipulated order dated October 3, 2005 levying a \$600 civil penalty. Thompson failed to renew his real estate license for a period of time while continuing to conduct professional real estate activity. Violation: OAR 863-15-0050(2)

Transnation Title Insurance Company (Portland) Escrow Agent #990700017
 Stipulated order dated October 3, 2005 levying a \$100 civil penalty. Transnation failed to renew its escrow agent license for a period of time while continuing to conduct professional escrow activity. Violation: ORS 696.511

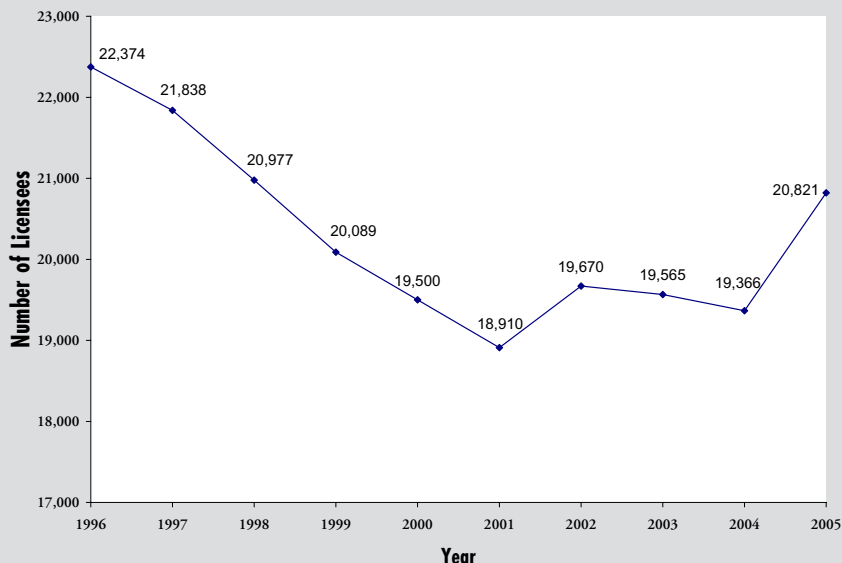
Vest, Daniel H. (Grants Pass) Broker #910300226
 Stipulated order dated November 3, 2005 levying a \$600 civil penalty. Vest failed to renew his/her real estate license for a period of time while continuing to conduct professional real estate activity. Violation: OAR 863-15-0050(2)

OTHER

Slater, Joan E. (Harbor) Broker #200504265
 Stipulated order dated November 22, 2005 approving a limited license. Slater applied for an Oregon real estate broker license. Slater's application disclosed a Stipulation and Agreement dated December 25, 2001 where Slater's California real estate license was revoked and she was given the right to apply for a restricted license. Slater is currently licensed in California with a restricted license. The California Agreement shows that Slater disbursed funds from her clients' trust account in excess of the trust fund liability, that she failed to maintain an adequate control record for all trust funds received in chronological order for all three clients' trust accounts, that she failed to perform monthly reconciliations of all separate transaction records showing all trust funds received and disbursed, that she permitted unlicensed an unbonded persons to be authorized signatories on all three clients' trust accounts, and that she paid her office manager to perform acts for which as real estate license was required. Slater's violations were characterized as negligent rather than intentional. Violation: ORS 696.022(5)

TEN-YEAR LICENSING TREND

The end of the year presents a good time to review trends and statistics. Following are licensing trends for the ten-year period between 1996 and 2005. The ten-year trend in the number of real estate brokers and property managers licensed in Oregon shows an upward increase, ending a three-year decline beginning in 2002. The increase may reflect changes in the real estate market and the economy. The Agency anticipates the number of licensees will remain stable. The numbers in the graph to the right between 1996 and 2005 are for January of each year, and include active and inactive real estate licensees.



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