



Oregon Real Estate News-Journal

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AGENCY REVISITED

Scott W. Taylor, Real Estate Commissioner

It has been nearly a year since the major revisions to real estate licensing laws became operative, and for the most part things seem to be working well. Not surprisingly, agency and agency disclosure seems to be the most confusing. From my experience, the most confusing aspect of the new laws stems from trying to make agency more difficult than it is. I'll try and put the process and the obligations in their simplest terms.

Disclosure

The broker must give the agency disclosure pamphlet to the appropriate parties. See ORS 696.820 for the governing statute. The agency disclosure pamphlet must be printed in substantially the same form as found in OAR 863-015-0215. To whom do you give it? Give it to anyone who can be reasonably assumed to be seeking representation. If you take an ad call and the person will not give you their name or other contact information, you can safely assume this person is likely not seeking representation from you at the time. You do not have to give one to someone who already has one, nor do you have to give one to someone who can be reasonably assumed to have representa-

tion. When in doubt, give it out. When do you give it? Give it at first contact. How do you give it? Give it however the situation demands. This can be by mail, in person, or by electronic transmission. Does the prospect have to sign it? The law does not require a signature, though company management may require further documentation by policy for risk management purposes.

"Disclosed Limited Agency/ Designated Agency"

This is where people begin to get confused. First, this only happens when (1) there is a transaction written, (2) where the buyer and seller are both represented by the same firm, or the firm represents two or more buyers offering on the same property. Second, any disclosed limited agency requires the written consent of both the buyer and seller or the multiple buyers prior to entering into a transaction. Third, "designated agency" is a form of disclosed limited agency and can only happen where there is a principal broker (who becomes the disclosed limited agent) and two licensees affiliated with the principal broker where one represents the buyer and the other represents

the seller in the transaction or each represents a different buyer offering on the same property. Fourth, any form of disclosed limited agency is conducted according to written company policy as set out in OAR 863-015-0220. The governing statute is ORS 696.815. See ORS 696.815 (4) regarding "designated agency". OAR 863-015-0210 describes the use and form of disclosed limited agency agreements. Disclosed limited agency in practice is dependant upon a company's written policies. If the company has no written policies, affiliated licensees have no way of knowing how to proceed.

Though not required by law, assuming a company sells its own listings or two affiliated licensees may have buyers pursuing the same property, early discussion of disclosed limited agency, the company's policy, and early written authorization to enter into a form of disclosed limited agency in a future transaction is highly recommended. To date, the only consumer complaint I have acted upon came from a buyer who had not given prior consent; only to have been presented with the form immediately

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before her agent would write an offer for her on one of the company's listings. Though the buyer readily admitted she would have signed an authorization much earlier had her agent explained it to her and asked, she felt she signed the form under duress just prior to the offer and she was angry.

Acknowledgement of Agency Relationships

The requirement to acknowledge the relationships upon entering into a contract has not changed substantially from prior law. However the licensee must be sure the form used is a form designed for the law after July 1, 2002. I think the current form is easier to fill out properly.

Practice

ORS 696.805, 810, and 815 describe the obligations of a real estate licensee as a seller's agent, a buyer's agent and a disclosed limited agent. These

obligations are also discussed in the agency disclosure pamphlet. If real estate licensees would simply make these obligations their mantra for how they conduct their business, the Agency would see a dramatic decrease in complaints.

These obligations are no longer set out in broad common law terms. They are written in language that should be understandable to both licensees and consumers.

Simply put, the obligations of an agent include the following: An agent must exercise reasonable care and diligence, deal honestly and in good faith, present all written offers or other written communication in a timely manner, disclose known but not apparent or readily ascertainable material defects, and account in a timely manner for money or property received on behalf of the client. Additionally, the agent must be loyal to the client and not take action that is detrimental or adverse to the client's interest in a transaction, as well as disclose in a timely manner any conflict of interest, existing or contemplated. Agents must advise clients to seek expert advice on matters that are beyond the agent's expertise, and agents do not have a duty to investigate matters outside the scope of their license expertise unless they agree to do so in writing. The agent employed by a client must make a good faith effort to accomplish the client's stated real estate interests, i.e. find a buyer or find a property. Finally, an agent must maintain confidential information about the client, except under subpoena or court order, even after termination of the relationship.

Though the requirements differ slightly with buyers' and sellers' agents and disclosed limited agents, generally the above duties apply to all. Most of these are common sense and can be readily understood by most people. The Agency hopes that by articulating these duties in real estate terms, consumers will better understand what they should realistically expect of their agent and licensees will better understand what is expected of them.

Many who have known me for some

time know that fifteen years ago I suffered a spinal cord injury as a result of surgery. Among the many things I learned from that experience, two apply here. First, I understand how it feels to be a consumer who suffers because of a mistake made by a professional. I also am aware that my doctor also suffered a good deal of personal anguish over what happened. The above obligations are preventive measures that if followed will go a long way toward insuring a real estate licensee does not injure a consumer with whom he or she works in the capacity of a real estate professional. I call this proactive pain avoidance for clients and licensees.

The second thing I learned applies to how one approaches agency. My first physical therapist came from the former Soviet Union. He had always lived in a very structured environment where there were very few choices. The State had a parental role. He expressed having a difficult time adjusting to a free society where choices abound and one must give conscious thought as to how one wishes to live his or her life.

Real estate brokerage in the 21st century is much the same situation. Under previous law, the Agency assumed a more parental role and the business was much more structured because the law was more limiting. Today, because of consumer expectations and the plethora of ways business can be conducted, the law has changed and the Agency is adjusting to a less parental role where the law places the burden on a company to decide by policy how it conducts its business within broader parameters. Depending upon its size and how it conducts its business, a brokerage firm can design its agency policies from very simple to very complex.

Principal brokers must now give more thought to how they wish their business to operate. They then must familiarize themselves with the various options available under the law, and design and implement their policies accordingly. Affiliated real estate licensees must now become better educated in how their company chooses to do business and operate according to the company's agency policy.

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Betty Reynolds, Editor

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ADMINISTRATIVE RULE CHANGES

Brian DeMarco, Manager, Land Development and Policy Coordination

The Agency is processing administrative rule changes in two areas. First, the Agency filed notice to permanently adopt revisions to administrative rules related to timeshare estates and campground membership contracts. Second, the Real Estate Agency filed notice of its intent to permanently adopt the temporary rules (effective since February 28, 2003) related to real estate licensing and property management.

The changes in rules related to timeshare estates and campground membership contracts were promulgated in accordance with the Governor's directive to eliminate unnecessary regulation and to streamline the regulatory process. These proposed administrative rules eliminate redundant and unnecessary regulations. The rule changes do not directly impact licensees; they merely make it easier for timeshare developers and campground operators to register their projects. The Agency gave notice of the changes to interested parties on May 5, 2003. The last day for public comment was May 27, 2003. The Agency received one comment from the timeshare and campground industries and no public hearing was requested. The rule changes are effective July 1, 2003. A copy of the text of the rules may be obtained from the Agency by calling (503) 378-4170, ext. 239 or from

the Agency's website at <http://www.rea.state.or.us>.

The changes in rules relevant to real estate and property management licensees, generally, will make permanent the temporary rules that have been in effect since February 28, 2003. The rules are the result of Senate Bill 446, enacted in 2001, which substantially revised Oregon's licensing system for real estate professionals including real estate brokers and real estate property managers. The Agency adopted rules to implement various provisions of Senate Bill 446. Subsequently, the Agency adopted temporary administrative rules (1) required by the legislation, (2) required to fix inconsistencies within the rules promulgated subsequent to the passage of Senate Bill 446, or (3) required to further implement the policies and procedures contemplated in the legislation. However, with the promulgation of the permanent rules, there are some discrete changes of which licensees should be aware. For example:

- The use of debit cards with respect to client trust accounts will no longer be allowed and business name registration issues have been clarified.
- Under the proposed rules, the Agency would discontinue licensing individuals as professional corporations (P.C.s). Licensees would

be allowed to use the letters "P.C." in their advertising if certain conditions are met, even though their licensed name will not include the designation. If this portion of the rules is adopted as proposed, licensees currently licensed as P.C.s will be issued new licenses without the P.C. designation.

The Agency has filed the rule changes with the Secretary of State's (SOS) office for publication in the SOS's *Oregon Bulletin*. The *Bulletin* will be available July 1 either in paper format by calling (503) 373-0701 or through the SOS website at <http://arcweb.sos.state.or.us>, and clicking on "Administrative Rules." Also, a copy of the text of the proposed rules may be obtained from the Agency by calling (503) 378-4170, ext. 239 or from the Agency's website at <http://www.rea.state.or.us>. Comments on the proposed permanent rules may be submitted through July 22, 2003 to the following:

Brian DeMarco, Rules Coordinator
Oregon Real Estate Agency
1177 Center NE
Salem, OR 97301-2505.

The permanent rules will be effective August 1, 2003. If you have questions regarding the proposed rules, please contact Brian DeMarco at (503) 378-4170, ext. 237.

ARE YOUR TRUST ACCOUNTS IN ORDER?

Oregon Real Estate License Law places certain requirements on licensees maintaining clients' trust accounts. Do you reconcile your accounts monthly as required? The statutory requirements for broker and property manager clients' trust accounts can be found at ORS 696.241-245. Additionally, the rules for brokerage clients' trust accounts are at OAR 863-015-0255 and 0275. Rules for property management clients' trust accounts are at OAR 863-025-0025 and 0030.

The statute and rules may be accessed at the Agency's web site at www.rea.state.or.us.

After July 1, the Agency will begin conducting a substantial number of random mail-in client trust account audits. If you maintain and reconcile your accounts according to statute and rule, these audits should be relatively simple to complete. A sample form currently used by Agency auditors for trust account reconciliations is reprinted for your information on

page 10.

Please contact the Regulation Division at (503) 378-4170, ext. 258 if you have questions regarding Clients' Trust Accounts or wish to schedule a compliance review by an Agency employee. Compliance reviews are intended to provide assistance and education in complying with the law and Agency rules.

See TRUST ACCOUNT RECONCILIATION FORM
on page 10

UPCOMING DEADLINES

Many revisions made to the Oregon Real Estate License Law, ORS 696, by the 2001 Legislature became effective July 1, 2002. However, some of the changes are phased in, giving licensees additional time to meet new requirements. Licensees affected by the changes should be aware of the following deadlines and take the steps necessary to satisfy requirements before the effective dates. Contact the Agency at (503) 378-4170 for questions concerning any of the following deadlines.

DEADLINE	FOR LICENSE CATEGORY	ACTION NECESSARY
June 30, 2003	Property Managers licensed <i>after</i> July 1, 2002	Submit verification of approved pre-license course completion. Failure to submit verification results in termination of license. (ORS 696.022, OAR 863-15-046)
January 2, 2004	Associate Brokers (formerly known as salespersons <i>prior</i> to July 1, 2002) who supervise licensed personal assistants	Meet qualifications and submit application for principal broker license. Licensed personal assistants may no longer be employed by anyone in any other license category after this date. (ORS 696.028, OAR 863-015-0195)
June 30, 2004	Temporary Property Managers (those licensed <i>prior</i> to July 1, 2002)	Submit verification for completion of "Property Manager Transition Course." Failure to submit verification results in termination of license. (Oregon Laws 2001, Chapter 300, Section 3)
June 30, 2005	Associate Brokers (formerly known as salespersons licensed <i>prior</i> to July 1, 2002)	Submit verification for completion of "Associate Broker Transition Course." Failure to submit verification results in termination of license. Applies to inactive as well as active associate brokers. (Oregon Laws 2001, Chapter 300, Section 2)
First renewal of active broker license	Brokers (those originally licensed <i>after</i> July 1, 2002)	Complete "Advanced Real Estate Practice" course. Failure to complete the course results in the inability to renew the license. (ORS 696.174 (3) and OAR 863-015-0055 (4))

WHERE TO FIND CLASSES (UPDATED)

New courses are approved and added to the Agency's list of approved classes regularly. Check out the Agency's web site at www.rea.state.or.us for the latest list of providers offering approved pre-license, post-license, and transition courses. You may also receive the list by mail by calling the Agency at (503) 378-4170, selection 2 from the menu.

The following is a list of approved schools currently offering or scheduled to offer hard-to-find required courses:

Brokerage Administration and Sales Supervision

American College of Real Estate (503) 247-9311
onlineEd www.onlined.com or (503) 636-4580

Advanced Real Estate Practices

Real Estate Institute of Greater Portland
(503) 665-6780

Property Manager Transitions Course

American College of Real Estate (503) 247-9311
Multifamily Housing Council of Oregon
(503) 378-1912

Portland Community College (503) 977-4393
ProSchools (503) 256-3645

Real Estate Property Manager

Lane Community College (541) 463-5906
Portland Community College (503) 977-4393
ProSchools (503) 256-3645

DUAL CONTRACTS - A ROAD OFTEN TRAVELED BUT NOT WORTH CONSIDERING

Editor's note: This article is reprinted with permission from the South Carolina Real Estate Commission. It was first printed in the May 2001 edition of the S.C. Real Estate Newsletter, and it appeared again in the April 2003 Newsletter.

The Real Estate Commission and the Real Estate Appraisers Board have recently worked several cases involving dual contracts. **The License Law defines a dual contract as an instrument, written or otherwise, by stating a sales price higher than the actual sales price in an effort to obtain a larger loan from a lender or lending institution or for the purpose of misinforming a governmental agency or any other reason.** This wording is fairly clear and open to little interpretation, but licensees are getting involved in dual contract situations all too frequently. The penalties for becoming involved in a dual contract can be very severe, up to and including loss of your license.

If your attention has not yet been gained, let's try this... Dual contracts most always equate to loan fraud and loan fraud has the propensity to arouse the interest of federal law enforcement agencies and prosecutors. The Federal Bureau of Investigation has recently asked for our help and offered their assistance in cases involving loan fraud. Title 18 of the United States Code, Section 1014 makes loan fraud punishable by fines up to \$1,000,000 and/or up to thirty years in prison. Offenders are also often charged with wire fraud, mail fraud and conspiracy. **Now are you listening?**

Among others, the participants in loan fraud can include the real estate agent, the real estate appraiser, the loan officer or loan broker, the closing attorney, the buyer and the seller. Any of these persons, however, can break the chain and

cause the fraud to unravel. Based upon the risks listed above, there are certainly more reasons to break the chain than to be a link in it. The real estate licensee representing the buyer or the seller should easily be aware of dual contracting and in most cases is in the best position with their in-depth knowledge which could serve to avert loan fraud attempts.

Some key points to remember about dual contracts are:

(1) dual contracts do not have



to be simultaneous,

(2) the lender is often not the person who processes the loan application,

(3) just because a lender or loan broker says it is legal does not make it so,

(4) just because an appraisal supports the contract figure does not make it less of a fraud,

(5) just because an attorney is willing to close the loan does not make it legal, and finally,

(6) there is no legitimate reason for two different contracts to exist between the same buyer and seller for the same transaction.

While not all loan fraud involves dual contracts, dual contracts are often used to disguise the existence of one or more elements of loan fraud. These may include playing with the loan to value ratio, the secret second mortgage, the silent second, the bump and run or a property flip. Loan fraud is becoming big business as indicated by

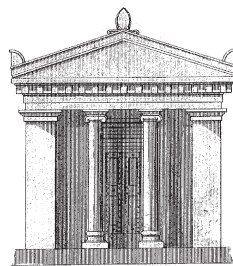
recent FBI statistics that indicate of the \$1.7 trillion in residential mortgage loans or refinance packages issued in 1998, an estimated \$60 billion was fraudulent. It has been reported that almost 1/3 of all mortgages are approved because of false information and up to 20% of the loans would not have been made if the lender had known all the correct facts.

In a fairly recent case involving dual contracts, two real estate appraisers lost their licenses and two real estate agents were reprimanded, placed on probation and were required to pay \$9,000.00 in restitution to the buyers in order to keep their licenses from being suspended indefinitely. Needless to say, where money is involved, people will often succumb to greed. Please do yourself a favor and do not get involved, even unwittingly, in dual contracts. The costs could far outweigh any commissions received. Do not be fooled either by the notion that you are helping a buyer by manipulating the contract. Consider, instead, the impact on the buyer who may be faced sometime in the future with payments they cannot afford and a home they cannot sell because it is not worth the amount owed on the mortgage.

Bottom line...do not participate in, or otherwise indulge the participants of, a dual contract. You could lose your license, face federal prosecution and be subject to civil suits. Handle all changes to a contract by way of an addendum that is clearly made part of the contract. If you are told by anyone that the lender will not accept a contract addendum and that you need a new contract you should believe immediately that loan fraud is in the making. Please call the Commission if you become aware of any suspicious transactions.

ADMINISTRATIVE ACTIONS

February 26, 2003 through May 31, 2003



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.

REVOCATIONS

Bales, Barbara J. (McMinnville) Principal Broker #801204116 Stipulated order dated February 26, 2003, effective February 26, 2003; misrepresented the collection of rents, ORS 696.301(1)(4) (1999 & 2001); used other owners' funds to pay rents to owners that were not collected, ORS 696.301(20), OAR 863-010-220(3)(a,d) (1999), OAR 863-0015(1)(a,b,c,d), OAR 863-025-0025(3)(a,e) (2002); did not put an identifying code on property management agreements, OAR 863-010-210(1) (1999) OAR 863-025-0020(g) (2002); allowed earnings credits to be deposited into and maintained in her clients' trust account without written approval of all parties, ORS 696.301(10) (1999 & 2001), OAR 863-020-026(3)(b,c) (1999), OAR 863-025-0025(8) (2002); did not develop a written company policy, OAR 863-025-0015(2)(a,d,e) (2002); the clients' trust account was improperly labeled and there was no separate clients' trust account for tenant deposits, OAR 863-025-0025(1)(2)(9), OAR 863-025-0030(1)(2) (2002); did not provide the Agency with an Inventory of and Authorization to Examine Clients' Trust Account, ORS 696.241(2)(3) (1999 & 2001); wrote herself a \$3,500 clients' trust account check and did not allocate what she was paying herself for, OAR 863-025-0025(5) (2002); did not properly balance her clients' trust

account for over two years, OAR 863-010-0220(5)(d) (1999), OAR 863-025-0025(5) (2002); failed to maintain a complete record of receipts and disbursements, ORS 696.301(12) (1999 & 2001), OAR 863-010-0215(5) (1999), OAR 863-025-0035(1) (2002); did not maintain a running balance of the clients' trust account for two years, OAR 863-010-215(5) (1999), OAR 863-025-0040(4) (2002); did not maintain a register with a balance posted after each entry for two years, OAR 863-010-0215(5) (1999), OAR 863-025-0055 (2002); and did not put an identifying code by each entry of deposit, OAR 863-010-0215(5) (1999), OAR 863-025-0065 (2002).

Jensen, Jerome D. (Salem) Principal Broker #851100117 Stipulated order dated April 7, 2003, effective April 7, 2003; failed to collect a deposit or option consideration, ORS 696.815(2); misrepresented terms and conditions of a lease/option to buyer and the first mortgage holder regarding rent, sweat equity and earnest money, ORS 696.301(1); failed to obtain a property management agreement and failed to maintain any required property management records, ORS 696.301(12), OAR 863-010-0025, 863-010-0210, 863-010-0215 (1999 Edition); OAR 863-015-0250, 863-025-0020, 863-025-0035, 863-025-0040, 863-025-0050, 863-025-0055, 863-025-0060 (2001 Edition); and failed to maintain a clients' trust account for his property management activity and co-mingled the funds received from the tenant/buyer with his own, ORS 696.301(10) and (20) (1999 and 2001 Editions).

Valley, Irene (Salem) Temporary Associate Broker #890900108 No contest settlement agreement and

stipulated final order dated March 3, 2003, effective April 1, 2003, resulting in a revocation.

SUSPENSIONS

Pacey, Pam D. (Albany) Principal Broker #910700221

Stipulated order dated March 6, 2003 issuing a 60 day suspension effective March 28, 2003; prepared promissory notes due and payable at closing, OAR 863-010-0020(5); failed to maintain copies of land sales contracts, ORS 696.301(12); failed to review land sales contracts for two properties and failed to advise the buyers of potential consequences of the various changes in terms and conditions that might result from the newly generated agreements, ORS 696.815(2); could not provide evidence that she notified the buyer or the sellers that a transaction was in jeopardy for failing to have the promissory note redeemed, ORS 696.810(3); authorized escrow to pay a buyer \$500 out of her commission to enable the buyer to pay their down payment, and allowed part of her commission to go to the seller for help with repairs, ORS 696.290; and did not give buyer an Initial Acknowledgment of Agency Relationships at the first substantive contact, ORS 696.820(2) (1999 Editions).

Pasquinzo, Chris J. (Coos Bay) Temporary Associate Broker #941200100

Default order dated April 7, 2003 issuing a 30 day suspension effective April 7, 2003; failed to transmit copies of inspection reports and well test results to his broker, ORS 696.301(28); and signed the buyers' names to an addendum without the knowledge or permission of the buyers, ORS 696.301(31) (1999 Editions).

REPRIMANDS

Baldwin, Matthew A. (Hillsboro) Principal Broker #800100304 Stipulated order dated May 2, 2003; failed to obtain a written, dated and signed property management agreement prior to engaging in property management activity, failed to reconcile clients' trust accounts at least once a month, allowed a licensee to sign off on bank reconciliations before the licensee was a designated broker, allowed checks to be written and posted to the owner's ledger at a time when there was not sufficient monies posted in the owner's ledger to cover a particular check, totaled bank accounts together instead of reconciling them separately, transferred funds from a clients' trust account to a new bank account instead of allowing the outstanding checks to clear, transferred funds by telephone transfer, and used a check from a closed account as a reconciling item, however there was no verified loss of client funds, ORS 696.301(28).

Blum, Peter A., Jr. (Salem) Broker #931100206 Stipulated order dated March 18, 2003; failed to put in writing an oral agreement regarding \$2,000 held in escrow for LP Siding repair to protect his buyer, ORS 686.810(2).

Brooks, Donna A. (Roseburg) Broker #780700192 Stipulated order dated May 30, 2003; failed to advise a lender when she knew or should have known that the buyer and seller had reached a side agreement in writing to forgive payment of the second mortgage and that the lender would not be informed, in violation of ORS 696.301(1) (1999 Edition).

Chapman, Torry R. (Salem) Broker #200106055 Stipulated order dated March 17, 2003; by continuing to work on a transaction, that had been started under her former brokerage, after she moved her license to a new brokerage, she represented a principal bro-

ker other than the principal broker she was associated with, ORS 696.301(3); failed to see that a promissory note was redeemed or that the seller or the seller's agent was notified, ORS 696.301(28); and prepared a promissory note payable to "Undisclosed" instead of to the seller, OAR 863-015-0135(5).

Goodman, Roger M. (LaGrande) Principal Broker #780301660 Stipulated order dated May 12, 2003; allowed an employee to manage the clients' trust accounts and property management accounting records on her own, ORS 696.301(29) (1999 & 2001 Editions).

Hayden, Edward J. (Hillsboro) Principal Broker #930500285 Stipulated order dated May 2, 2003; failed to obtain a written, dated and signed property management agreement prior to engaging in property management activity, failed to reconcile clients' trust accounts at least once a month, signed off on bank reconciliations before he was a designated broker, allowed checks to be written and posted to the owner's ledger at a time when there was not sufficient monies posted in the owner's ledger to cover a particular check, totaled bank accounts together instead of reconciling them separately, transferred funds from a clients' trust account to a new bank account instead of allowing the outstanding checks to clear, transferred funds by telephone transfer, and used a check from a closed account as a reconciling item, however there was no verified loss of client funds, ORS 696.301(28).

Johnson, Kimberly A. (Beaverton) Principal Broker #850300385 Stipulated order dated May 1, 2003; failed to report a loss of laundry money on the owner statement, ORS 696.301(4); failed to give an on-site manager specific money collection procedures and client property safeguarding instructions regarding the laundry money she collected,

ORS 696.301(29); and failed to immediately notify the owner of the theft of the laundry money, ORS 696.301(28) (1999 Editions).

Koury, Robert G. (Portland) Broker #780501496 Stipulated order dated March 25, 2003; failed to recommend to seller that he obtain a credit report when he was being asked to carry back a second trust deed, ORS 696.815(2); failed to assure the promissory note was made payable to the seller or broker, failed to indicate how earnest money would be distributed in a sale fail, failed to obtain all sellers' signatures on the agency disclosure and listing, failed to have seller indicate whether or not they were aware of any material structural defects on their disclaimer, failed to indicate date and time the offer was presented, failed to present an addendum, and failed to write an addendum to extend the closing date, ORS 696.301(28).

Ledingham, Lynne (Eugene) Broker #970900017 Stipulated order dated April 1, 2003; failed to make clear to sellers that the \$50,000 earnest money check indicated on the offer wasn't actually in her possession at the time of the offer because buyer was waiting for the return of an earnest money from a prior failed transaction, ORS 696.301(28); and failed to provide her buyer with an initial agency disclosure form during the transaction, ORS 696.820(2) (1999 Editions).

Leitch, Brenda Dalton (Astoria) Temporary Property Manager #990700056 Stipulated order dated March 31, 2003; failed to provide the Agency with an inventory of and authorization to examine clients' trust account in a timely manner, ORS 696.241(2)(3); failed to provide notice to, and obtain acknowledgment from her financial depository regarding the trust status of her

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ADMINISTRATIVE. . . : continued from page 7
clients' trust account, ORS 696.245; and failed to ensure that her clients' trust account remained clearly designated as a "clients' trust account", ORS 696.241(1).

Sachdeva, Kharati L. (Eugene) Broker #951000067
Stipulated order dated March 19, 2003; failed to deposit an earnest money check for three months after the offer was accepted, OAR 863-010-0025(11); accepted a contract with financing arrangements that did not include seller financing in a second position in a transaction where he and his wife were the buyers, when he knew or should have known that they could not complete the transaction without seller financing, and then used his failure to obtain additional financing as a reason to terminate the contract, OAR 863-010-0020(5) (1999 Editions)

Smith, Victor D. (Salem) Broker #780203414
Stipulated order dated May 29, 2003; failed to notify the Agency of a judgment against him within the required 10 days, OAR 863-010-0120 (1999 Edition).

Turner, Deanna K. (Klamath Falls) Temporary Property Manager #980300106
Stipulated order dated February 28, 2003; failed to use the words "Clients' Trust Account" on two of her three clients' trust accounts, OAR 863-010-0215(1) (1999) and OAR 863-025-0025(1) (2001); failed to back up her computerized accounting system at least once a month and preserve said back up, OAR 863-010-0215(9)(b) (1999); overdrew the balances on four owner ledgers and withdrew management fees when the owner ledgers showed negative balances, OAR 863-010-0220(3)(a)(d) (1999) and OAR 863-025-0025(3)(a)(e)

(2001); failed to reconcile her clients' trust accounts at least once a month, OAR 863-010-0245 (1999) and OAR 863-025-0025(5)(6) (2001); removed funds from the owners' ledgers payable to her management company for advertising when said amounts were not covered in the management agreements, OAR 863-010-0210(1) (1999) and OAR 863-025-0020(2)(c) (2001); and booked payments made by her owners and the tenants as payments of rent on the office she was renting from her husband, OAR 863-010-0215(2)(3)(c) (1999).

Urena, Alfredo L. (Salem) Temporary Associate Broker #960400005
Stipulated order dated May 16, 2003; failed to resecure a property after the buyer had moved items into the garage, which provided an opportunity for the buyer to take possession without the sellers' consent, and failed to put in writing agreements to (a) extend the closing date, (b) purchase the stove, and (c) allow limited access to the property for storage purposes, ORS 696.301(28).

Watts, Charles L. A., Jr. (Salem) Temporary Associate Broker #930900239
Stipulated order dated April 14, 2003; failed to realize that the reductions in listing price made to the MLS were actually changes being made to the listing agreement and he signed the sellers' names without written permission to do so, failed to give the sellers any documentation explaining why they had paid \$1,000 to the buyer, and failed to advise the sellers they could ask for a contingency that they receive a satisfactory credit report or other qualifying information from the buyer when they were asked to carry back a 20% deed of trust, ORS 696.805(2); and did not have his sellers sign a disclosure form available through his brokerage which would establish in writing

that he had fully informed his clients regarding the risks they might be taking in carrying back the 20% trust deed and that his clients had received facts that would have been material to their decision making, ORS 696.301(28) (1999 Editions).

CIVIL PENALTIES

Fidelity National Title Company of Oregon (Portland) Escrow Agent #850600354
Stipulated order dated May 16, 2003 issuing a \$1,000 civil penalty; closed a transaction without receiving instructions from the parties to waive the receipt of judgment satisfactions, ORS 696.581(2).

First American Title Insurance Company of Oregon (Portland) Escrow Agent #850600257
Stipulated order dated March 12, 2003 issuing a \$500 civil penalty; disbursed \$500 earnest money to a buyer without instructions to do so, ORS 696.581(2); and failed to maintain escrow funds on deposit by disbursing the \$500 earnest money without instructions, ORS 696.578(1).

Williams, Mike (Aurora) Unlicensed #200206044
Stipulated order dated March 17, 2003 issuing a \$500 civil penalty; conducting professional real estate activity without benefit of a license, ORS 696.020(1) (1999).

OTHER

Carter, Kathy (Hood River) Principal Broker #950500163
Stipulated order dated March 13, 2003 for a 60 day suspension stayed for 6 months; in an in-company transaction, allowed her clients to enter into a sale agreement and then subsequently a land sales contract without fully disclosing that a promised deferred down payment from the buyer to the seller was to be funded from Carter's commission, ORS 696.815(2); held funds

in her personal bank account that were promised to be transferred to the seller without disclosing her activities to her broker, ORS 696.301(31) (1999 Editions).

Penny, Raymond M. (Roseburg) Principal Broker #940500291 Stipulated order dated April 14, 2003 for a 30 day suspension stayed for six months; failed to assure that his salesperson obtained a fully executed listing agreement and failed to assure that his salesperson accurately advertised the price of the

property, ORS 696.301(29); entered into an agency relationship agreement with buyers and failed to disclose that he no longer had the subject property listed and that the buyers' offer would not be submitted until the commission issue had been resolved with the seller, ORS 696.810(2); and he released a listing he had and then submitted a demand for commission in which he represented that he still had a written agreement with the seller, ORS 696.301(6) (1999 Editions).

AGENCY STAFF CHANGES

Two employees recently retired from the Agency.

Linda Zitzelberger, who retired in March 2003, began work with the Agency in May 1972. Her most recent responsibilities were as the Regulation Support Specialist for the Agency's Regulation Division. She served as a public service representative and controlled complaint and licensee audit files.

Commissioner Scott Taylor said, "Z' has been with this agency for over 30 years. During that time, she has seen a tremendous amount of change both from within the Agency and in the industry. Through all of it, her sense of humor and good nature have remained intact. She will be missed."

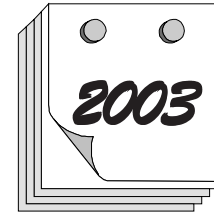
Linda commented that, "It's been a great place to work: interesting, fun, and always a learning experience." Linda looks forward to gardening and spending time with her husband Duane Reece in the home they recently built in Salem.

Joyce Yates, Public Service Representative with the Licensing Section of the Agency, accepted a lateral transfer to fill the vacant position.

Connie Johnson retired in May 2003. She has been an Investigator-Auditor with the Agency since June 1995, responsible for investigations, office compliance reviews, and trust account audits. Connie will reside in Hemet, California, and looks forward to sunshine and warm weather. Connie said, "My employment with OREA has been challenging and very interesting. I'm ready to move on to new experiences as a real estate broker in California."

Commissioner Taylor said, "I personally will miss Connie's professionalism and positive attitude. She had a way of going about her work that earned the respect of those she came in contact with; not only consumers, but also licensees."

The Agency wishes Linda and Connie well in their retirements, and wishes Joyce well with her new responsibilities.



2003 CALENDAR

June 21	License Exams
June 30	See "Upcoming Deadlines" article (page 3) for information
July 19	License Exams
August 18	Real Estate Board Meeting
August 23	License Exams
September 20	License Exams
October 13	Real Estate Board Meeting
October 18	License Exams
November 22	License Exams
December 15	Real Estate Board Meeting
December 20	License Exams

Exam applications must be postmarked by the 5th day of the month to register for that month's examination. Please refer to the Real Estate License and Examination Information booklet, available from the Agency, for instructions on applying for a licensing examination.



