

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Unlicensed Professional
Real Estate Activity of
RODNEY LYNN MANSON

FINAL ORDER BY DEFAULT AND ORDER
TO CEASE AND DESIST

PROCEDURAL HISTORY AND PROCEDURAL LAW

1.

1.1 On July 18, 2024, the Real Estate Commissioner issued, by certified mail, a *Notice of Intent to Assess a Civil Penalty and Order to Cease and Desist*. The Oregon Real Estate Agency (Agency) sent the Notice of Intent to Manson’s last known address of record with the Agency 19985 NE Sunnycrest Rd. Newberg, OR 97132-6786.

1.2 In response to the emailing of *The Notice of Intent* to Manson’s email address of record, the email was not returned as undeliverable.

1.3 The certified mailings and the first-class mailings were returned to the Agency. Over 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 or to any other person having an interest in a proceeding before the Commissioner 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 Manson’s last known address of record with the Agency was 19985 NE Sunnycrest Rd Newberg, OR 97132-6786.

2.3 A certified mailing of the notice of intent was mailed to Manson at Manson’s last known address of record on July 18, 2024. The certified mailing of the notice was returned to the Agency.

2.4 The notice was also mailed regular first-class mail to the above possible address for Manson. The first class mailings was returned to the Agency. 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 As noted in paragraph 9 of the *Notice of Intent to Assess a Civil Penalty and Order to Cease and Desist* 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 Manson 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, Manson was not licensed to conduct professional real estate activity in Oregon.

3.2 On November 3, 2023, the Agency received a complaint from Julio Lara (Lara) against Manson. The Agency opened an investigation.

3.3 Lara is a transaction coordinator with PNW Land LLC (PNW) and Molecular Inc. (Molecular.) who purchased property located at of 295 19th St SE, Salem, OR 97301 (19th Street).

3.4 The complaint alleges that Manson communicated with tenants at 19th Street and stated that the purchase of the property was not legal and requests from Lara to vacate the property should be ignored.

3.5 The complaint alleges that Manson purports to be a property management company representing tenants at 19th Street.

3.6 The complaint alleges that Manson insists he has ownership over the leases of the tenants Lara requested to vacate and that Manson has been collecting monthly rent from the tenants.

3.7 The Agency obtained property ownership records from Marion County confirming the purchase of 19th Street by PNW and Molecular recorded on July 26, 2023.

3.8 On March 19, 2024, Investigator Cidia Nañez (Nañez) emailed Manson requesting information on the status of property management activities of M R Homes, LLC (MR Homes.) Nañez asked if MR Homes was collecting rent payments from the tenants.

3.9 MR Homes is a Business Entity Manson is a member of per Oregon Secretary of State records obtained by Nañez.

3.10 Marion County property records show that the previous owner of 19th Street, prior to PNW and Molecular, granted the property to Saol Victeoiriach and Oidreach De Eadron Agus Gra Ministry (Ministries).

3.11 In Manson's complaint response he stated that he took on a position titled Trustee for the Ministries in April 2022. Manson stated in his complaint response that "The property has tenants/occupants and as Trustee I ensured that they all had appropriate documentation and leases executed."

3.12 Manson's complaint response additionally states that his responsibilities as Trustee include "collecting rent or other income from estate properties."

3.13 Nañez reviewed tenant ledger documents that show monthly rent charges of \$825.00.

3.14 The company name on the ledger documents is "MR Homes."

3.15 Lara provided the Agency tenant lease agreements that are printed with MR Homes letterhead. On the documents, MR Homes is listed as the "Manager" acting on behalf of the property owner.

3.16 The tenant lease agreement documents state that the monthly rent fees are \$825.00 and that rent payments are to be made to the Manager.

3.17 In Manson's response to the Agency regarding the complaint, he stated "M&R Homes is not a property management company in the traditional format. We do not collect any property management fees."

3.18 On March 25, 2024, Nañez emailed Manson requesting that he provide information on any exemptions for real estate activity per ORS 696.030 that might apply to his activities.

3.19 Manson responded to Nañez and wrote "Furthermore, ORS 696.030, which pertains to the regulation of real estate activity in Oregon, does not apply to certain exemptions. These exemptions include individuals who act as trustees under a trust agreement or will, as well as individuals who are regular salaried employees of trustees acting under a trust agreement. These exemptions acknowledge the special status and fiduciary responsibilities of trustees appointed to handle real estate on behalf of religious organizations."3.20 On June 6, 2024, the Agency issued a Cease and Desist order to Manson ordering him to cease all unlicensed professional real estate activity.

3.21 On June 14, 2024, the Agency received documents by mail from Manson that acknowledged the Cease and Desist Order. A hearing request was not received in the documents provided.

STATEMENT OF LAW APPLICABLE TO FINDINGS OF FACT

4.

4.1 ORS 696.020(2) (2023 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 as provided for in this chapter.

4.2 ORS 696.990(4)(a) and (b) (2023 Edition) 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.

4.3 ORS 696.010(11)(a)(A)-(M) and (b)(A)-(F) (2023 Edition) and ORS 696.010(14)(a)(A)-(M) and b(A)-(F) (2023 Edition) defines "Management of rental real estate."

4.4 ORS 696.010(6) defines "compensation" as: **valuable consideration** for services rendered or to be rendered, whether contingent or otherwise.

4.5 ORS 696.010(14)(a)(b)(c)(i)(j)(k) (2023 Edition) and ORS 696.010(17)(b)(h)(i)(j) (2023 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: (a) Representing the owner of real estate under a property management agreement in the rental or lease of the real estate; (b) offers to sell exchange, purchase, rent or lease real estate; (c) negotiates, offers, attempts or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate.; (i) purports to be engaged in the business of buying, selling, exchanging, renting or leasing real estate; (j) assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate; (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.

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

4.7 The Agency may rely on one or more definitions contained in ORS 696.010.

ULTIMATE FINDINGS OF FACT

5.

5.1 Manson engaged in unlicensed professional real estate activity.

5.2 Manson's actions constitute grounds to impose a civil penalty per ORS 696.990(4)(a) and (b) and ORS 696.990(5), as well as entry of an order to cease and desist from engaging in any professional real estate activity under ORS 696.397.

CONCLUSIONS OF LAW

6.

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

6.2 The material facts establish grounds to impose a civil penalty, by preponderance of the evidence, under ORS 696.990(4)(a) and (b) and ORS 696.990(5), as well as entry of an order to cease and desist from engaging in any professional real estate activity under ORS 696.397, as set forth in the Notice of Intent mailed July 18, 2024.

6.3 Based on the violations of ORS 696.020(2), the Agency may assess a civil penalty against Manson for each violation and as well as enter an order to cease and desist from engaging in any professional real estate activity.

6.4 Based on the evidence in the record, the preponderance of the evidence supports the civil penalty against Manson and an entry of an order to cease and desist from engaging in any professional real estate activity.

6.5 The Agency may therefore assess a civil penalty against Manson for each violation and enter an order to cease and desist from engaging in any professional real estate activity.

(1) **Violation:** By purporting to be engaged in property management activities and by collecting rent from tenants at the 19th Street property, from August 2023 through April 2024, Manson engaged in unlicensed professional real estate activity, as defined in ORS 696.010(14)(a),(b),(c),(i),(j),and (k) (2023 Edition) and ORS 696.010(17)(a),(b),(c),(i),(j), and (k) (2023 Edition) a violation of ORS 696.020(2) 2023 Edition, which states an individual may

not engage in, carry on, advertise or purport to engage in or carry on professional real estate activity, or act in the capacity of a real estate licensee, within this state unless the individual holds an active license as provided for in this chapter..

ORDER

IT IS HEREBY ORDERED that pursuant to ORS 696.397, Manson immediately cease and desist from engaging in any professional real estate activity as defined in ORS 696.010(17)(a)-(n) (2023 Edition) unless Manson first obtains a real estate license from the Agency. The Commissioner's authority for this order is under ORS 696.397.

IT IS FURTHER ORDERED, pursuant to ORS 696.990 and based upon the violation set forth above, Manson pay a civil penalty in the sum of: \$37,500, said penalty to be paid to the General Fund of the State Treasury by paying the same to the Agency.

Dated this 26th day of September, 2024.

OREGON REAL ESTATE AGENCY

Signed by:

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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.