



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 Wright’s last known address of record with the Agency was 55 SW Wall St. #17, Bend, OR 97702.

2.3 A certified mailing of the *Notice of Intent* was mailed to Wright at their last known address of record on July 30, 2024. The certified mailing of the notice has not been returned to the Agency.

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

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

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

the licensee for a violation of ORS 696.020(2); or (4) revise or render null and void an order suspending or revoking a license.

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

### **FINDINGS OF FACT**

#### 3.

3.1 On December 6, 2023, RBPM was notified by the agency that their client trust account (CTA) ending in #1410 was selected for a reconciliation review.

3.2 Records for the month of October 2023 were due on 12/20/2023.

3.3 The Agency made attempts to contact Wright by email, text message, and by phone on December 21, 2023, January 8, 2024, and January 30, 2024.

3.4 On January 30, 2024, Wright responded to Compliance Division staff, Rick Marsland (Marsland), by text stating that her father had passed away.

3.5 On January 30, 2024, Marsland sent Wright an email and text message that set a due date of February 20, 2024, to submit reconciliation records to the agency.

3.6 No response was received by the agency.

3.7 On March 5, 2024, Compliance Division Manager, Liz Hayes (Hayes) had a phone conversation with Wright.

3.8 During the conversation, Wright stated that she intended to close her business and that she managed six properties.

3.9 Wright stated that she did not reconcile accounts for over a year due to caring for her sick father who recently passed away.

3.10 Hayes provided a five-day period to organize and submit reconciliation records to the Agency. Wright agreed to submit reconciliation records.

3.11 On March 7, 2024, Marsland notified Wright by email a due date to submit reconciliation records by March 14, 2024. No response was received.

3.12 Marsland followed-up to request reconciliation records by email on March 19, 2024, with a due date of March 25, 2024. No response was received.

3.13 Hayes submitted a request for reconciliation records from Wright by email and text message on March 22, 2024. No response was received.

3.14 On April 5, 2024, an investigation was opened and assigned to Investigator John Moore.

3.15 On April 30, 2024, Regulations Division staff, Amanda Moser (Moser) sent an email to Wright requesting the most recent 3-way reconciliation of CTA ending in #1410 including supporting documents.

3.16 The requested deadline was May 7, 2024. No response was received.

3.17 On May 9, 2024, Moser sent another email to Wright following up on the request sent April 30, 2024.

3.18 Moser requested the most recent 3-way reconciliation of CTA ending in #1410 and supporting documents.

3.19 Moser requested the records be provided immediately as this was the second request submitted by the Agency for reconciliation records in the course of the investigation.

3.20 Moser wrote that if Wright did not have the requested documentation, to please provide information to explain why reconciliation records could not be provided. No response was received.

#### **STATEMENT OF LAW APPLICABLE TO FINDINGS OF FACT**

##### 4.

4.1 ORS 696.301(3) states a real estate licensee's real estate license may be disciplined if they have: ORS 696.301(3) which states a real estate licensee's real estate license may be disciplined if they have: (3) disregarded or violated any provision of ORS

659A.421, 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of the Real Estate Agency

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

4.3 OAR 863-025-0035(2)(a)(c) (1/1/2024 Edition) which states (2) A property manager must produce records required under section (1) of this rule for inspection by the Agency as follows: (a) When the Agency makes a request for production of property management records, the property manager must provide such records within no less than five banking days; and (c) Failure to produce such records within the timelines stated in subsection (a) or (b) of this section is a violation of ORS 696.301.

4.4 OAR 863-024-0095(1) 1/1/20, 1/1/21, 1/1/2022, 1/1/23, 1/1/24 Editions which states (1) Before managing rental real estate in any name, a licensed property manager must first register the business name with the Agency using the online process available through the Agency's website. For the purposes of this rule, "registered business name" means any name under which rental real estate is managed, including the licensee's legal name, an assumed name, or the name of a business entity, such as a corporation, partnership, limited liability company, or other business entity recognized by law. A licensee must maintain the registered business name with the Oregon Secretary of State's Corporation Division for any name other than the licensee's legal name

4.5 ORS 696.990(6)(a) states a real estate licensee who is a real estate property manager or principal real estate broker and who is engaging in or who has engaged in the management of rental real estate may be required to forfeit and pay to the General Fund of the State Treasury a civil penalty of up to \$1,000.00 per day of violation, or a lesser penalty in an amount determined by the commissioner if the licensee fails to comply with rules that require the licensee to produce for inspection records related to the management of rental real estate that are maintained by the licensee as provided by ORS 696.280. ORS 696.990(6)(b) states a civil penalty imposed under this subsection may not exceed \$10,000.00.

### **ULTIMATE FINDINGS OF FACT**

5.1 Wright failed to provide client trust account reconciliation records after repeated attempts from the Agency to obtain them.

5.2 Wright failed to register the business name of her property management company with the Oregon Secretary of State.

5.3 In summary, the facts above establish grounds to reprimand Wright's property manager license.

5.4 Wright's failure to timely produce, or complete failure to produce, the records constitute grounds to impose a civil penalty up to \$10,000.00 as per ORS 696.990(6)(a) and (b).

5.5 In summary, the facts above establish grounds to revoke/reprimand/suspend Wright's property manager license and impose a civil penalty in an amount up to \$10,000.

### **CONCLUSIONS OF LAW**

6.

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

6.2 The material facts establish a violation of a ground for discipline, by preponderance of the evidence, under ORS 696.301 as set forth in the *Notice of Intent to Reprimand*. ORS 696.396(1), (2)(c)(B).

6.3 Based on these violations, the Agency may reprimand Wright's property manager license.

6.4 Specifically, Wright is subject to discipline pursuant to ORS 696.301(3), (12) and (15) for (3) disregarding or violating any provision of ORS 659A.421, 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870 and 696.890 or any rule of the Real Estate Agency; (12) demonstrating incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license; and (15) engaging in any conduct that is below the standard of care for the practice of professional real estate activity in Oregon as established by the community of individuals engaged in the practice of professional real estate activity in Oregon.

6.8 The Agency may therefore, reprimand Wright's property manager license.

6.9 Pursuant to ORS 696.775 the expiration/lapsing of Wright's license does not prohibit the Commissioner from proceeding with this, or further action.

6.10 The specific violations are repeated here below:

**(1) Violation:** By failing to provide records of property management activity upon request by the agency, Wright violated OAR 863-025-0035(2)(a)(c) (1/1/2024 Edition) which states (2) A property manager must produce records required under section (1) of this rule for inspection by the Agency as follows: (a) When the Agency makes a request for production of property management records, the property manager must provide such records within no less than five banking days; and (c) Failure to produce such records within the timelines stated in subsection (a) or (b) of this section is a violation of ORS 696.301.

**(2) Violation:** By failing to maintain active registration for RBPM with SOS, Wright violated OAR 863-024-0095(1) 1/1/20, 1/1/21, 1/1/2022, 1/1/23, 1/1/24 Editions which states (1) Before managing rental real estate in any name, a licensed property manager must first register the business name with the Agency using the online process available through the Agency's website. For the purposes of this rule, "registered business name" means any name under which rental real estate is managed, including the licensee's legal name, an assumed name, or the name of a business entity, such as a corporation, partnership, limited liability company, or other business entity recognized by law. A licensee must maintain the registered business name with the Oregon Secretary of State's Corporation Division for any name other than the licensee's legal name.

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ORDER

IT IS HEREBY ORDERED The property manager license of Hayley Michelle Wright is reprimanded.

IT IS FURTHER ORDERED that, pursuant to ORS 696.990 and based upon the violation set forth above, Wright pay a civil penalty in the sum of \$10,000.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to the Agency.

Dated this 17th day of September, 2024.

OREGON REAL ESTATE AGENCY

Signed by:  
*Steven Strobe*  
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Steven Strobe  
Real Estate Commissioner

NOTICE OF RIGHT TO APPEAL: You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this order. Judicial review is to the Oregon Court of Appeals, pursuant to the provisions of ORS 183.482.