

REAL ESTATE AGENCY
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Real Estate License of)
SAMUEL JOHNSON) STIPULATED FINAL ORDER

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

FINDINGS OF FACT
&
CONCLUSIONS OF LAW
1.

1.1 Johnson was licensed as a property manager working under the registered business name A Property Management Company.

1.2 In 2015 Johnson took over managing the funds for A Property Management Company when the previous property manager left.

1.3 From 2015 until 2019 John used clients' trust account ending in #3352 for rents and security deposits.

1.4 During the investigation, Johnson did not have a completed three-way reconciliation for clients trust account ending in #3352. Johnson had not been reconciling the account with the three required components (three-way reconciliation), instead he had only been reconciling to the bank statement (two-way reconciliation).

1.5 Johnson stated he was working toward reconciling and rebuilding the records to be able to complete the reconciliations. Johnson was in the process of figuring out where the funds belonged and was going through achieved records to work through the reconciliations.

(1) Violation: By failing to reconcile clients' trust account ending in #3352 associated with A Property Management from at least 2015 when Johnson acquired the company, Johnson

1 violated ORS 696.301(3) as it incorporates OAR 863-025-0028(2) (1-1-18, 1-1-19, 1-1-20, 1-1-
2 21 Editions) and OAR 863-025-0025(20) (5-15-14, 11-15-16 Editions) which requires a
3 property manager to reconcile each clients' trust account within 30 calendar days of the date of
4 the bank statement pursuant to the requirements contained in this section.

5 **(3) Violation:** From years 2015 through 2019 Johnson commingled rents and security
6 deposits in clients' trust account ending in #3352 in violation of ORS 696.301(3) as it
7 incorporates OAR 863-025-0025(6) (1-1-18, 1-1-19, 1-1-20, 1-1-21 Editions) and OAR 863-
8 025-0025(4) (5-15-14, 11-15-16 Editions) which requires a property manager who receives
9 security deposits on behalf of an owner must open and maintain a security deposits account,
10 as defined in OAR 863-025-0010, that is separate from the property manager's clients' trust
11 account.

12 1.6 Johnson stated most of the funds in clients' trust account ending in #3352 were
13 property management fees he hadn't transferred out.

14 1.7 Johnson provided an aggregated report and owner ledgers for check number
15 #6578 for \$5,053.28 dated September 20, 2019. The memo line showed "Jun 2019."
16 Supporting documentation for the check indicates the funds consisted of property management
17 and placement for June 2019.

18 1.8 Johnson provided a report and owner ledgers for check number 6583 for
19 \$2,048.99, dated September 20, 2019. The memo line showed, "Dec 2018." Supporting
20 documentation for the check indicates the funds consisted of property management and
21 placement fees for December 2018.

22 **(2) Violation:** By failing to transfer property management fees of clients' trust account
23 ending in #3352 Johnson violated ORS 696.301(3) as it incorporates OAR 863-025-0027(6)
24 (1-1-18, 1-1-19, 1-1-20, and 1-1-21 Editions) and OAR 863-025-0025(15) (5-15-14, 11-15-16
25 Editions) which states: A property manager must disburse earned management fees from the
26 clients' trust account at least once each month unless a different schedule of disbursement is
27 specified in the property management agreement, and may only disburse such fees if sufficient
28 funds are available.

29 1.9 During the investigation, Johnson said he had requested the bank statements for
30 June 2016 through December 2019 to rebuild the files because they had a few different

1 accounting systems during that span.

2 **(4) Violation:** By failing to maintain records required to reconcile clients' trust account
3 ending in #3352 Johnson violated ORS 696.301(3) as it incorporates OAR 863-025-
4 0035(1)(b)(j)(3)(b) (5-15-14, 11-15-16, 1-1-18, 1-1-19, 1-1-20 Editions) and ORS 696.280(1)
5 (2013, 2015, 2017, and 2019 Editions). OAR 863-025-0035(1)(b)(j)(3)(b) states in part, (1)
6 the property manager's records of management of rental real estate are "complete and
7 adequate" as required if records contain at least the following: (b) Clients' trust account and
8 security deposit account records required by OAR 863-025-0000 to 863-025-0080 and ORS
9 Chapter 696; (j) Records of the reconciliation of each clients' trust account and security
10 deposits account, including the reconciliation document; (3) If a property manager uses a
11 computerized system for creating, maintaining and producing required records and reports: (b)
12 Posting of owner ledgers, record of receipts and disbursements, tenant ledgers and
13 manipulation of information and documents must be maintained in a format that will readily
14 enable tracking and reconciliation. ORS 696.280(1) (2013, 2015, 2017, and 2019 Editions)
15 states a licensed real estate property manager or principal real estate broker shall maintain
16 within this state, complete and adequate records of all professional real estate activity
17 conducted by or through the licensed real estate property manager or principal real estate
18 broker.

19 1.10 A review of the owners ledgers provided by Johnson indicated the ledgers lacked
20 the following required identification information for deposits of funds: the amount of funds
21 received, the purpose of the funds and identity of the person who tendered the funds, the
22 check number, cash receipt number/unique series of letters/numbers to establish an audit
23 trail lacked the check number, or letter or numbers that establish an audit trail for the receipt of
24 funds, and the date the funds were deposited. For each disbursement of funds the owner
25 ledger lacked all of the required identifying details.

26 **(5) Violations:** The owner ledgers provided did not meet the minimum requirements a
27 violation of ORS 696.301(3) as it incorporates OAR 863-025-
28 0055(3)(b)(B)(C)(D)(c)(A)(B)(C)(D)(E)(d) (1-1-19 Edition) which states: (3) All owner ledgers
29 must contain at least the following information:(b) For each deposit of funds: (B) The purpose
30 of the funds and identity of the person who tendered the funds; (C) The check number, cash

1 receipt number or a unique series of letters and/or numbers that established an audit trail to
2 the receipt of funds; and (D) The date the funds were deposited; (c) For each disbursement of
3 funds: (A) The date the funds were disbursed; (B) The amount of funds disbursed; (C) The
4 check number or bank-generated electronic tracking number; (D) The payee of the
5 disbursement; (E) The purpose of the disbursement; and (d) The balance after each recorded
6 entry.

7 1.11 All of the above violations demonstrate incompetence in performing any act for
8 which Johnson is required to hold a license.

9 **(6) Violation:** ORS 696.301(12) (2013, 2015, 2017, and 2019 Editions) which states a
10 licensee’s real estate license may be disciplined if they have demonstrated incompetence in
11 performing any act for which the real estate licensee is required to hold a license.

12
13 2.

14 2.1 The foregoing violations are grounds for discipline pursuant to ORS 696.301.
15 Based on these violations a reprimand is appropriate for violations of ORS 696.301(3) and
16 (12).

17 2.2 The Agency reserves the right to investigate and pursue additional complaints
18 that may be received in the future regarding this licensee.

19 2.3 In establishing the violations alleged above, the Agency may rely on one or more
20 of the definitions contained in ORS 696.010.

21 2.4 According to ORS 696.775, the lapsing, expiration, revocation or suspension of a
22 real estate license, whether by operation of law, order of the Real Estate Commissioner or
23 decision of a court of law, or the inactive status of the license, or voluntary surrender of the
24 license by the real estate licensee does not deprive the commissioner of jurisdiction to: (1)
25 proceed with an investigation of the licensee; (2) conduct disciplinary proceedings relating to
26 the licensee; (3) Take action against a licensee, including assessment of a civil penalty against
27 the licensee for a violation of ORS 696.020(2); or (4) revise or render null and void an order
28 suspending or revoking a license.

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STIPULATION & WAIVER

I have read and reviewed the above findings of fact and conclusions of law which have been submitted to me by the Agency and further, the order which follows hereafter. I understand that the findings of fact, conclusions of law and this stipulation and waiver embody the full and complete agreement and stipulation between the Agency and me. I further understand that if I do not agree with this stipulation I have the right to request a hearing on this matter and to be represented by legal counsel at such a hearing. Hearings are conducted in accordance with the procedures set forth in ORS Chapter 183 and in accordance with the Rules of Practice and Procedure adopted by the Attorney General of the State of Oregon. I freely and voluntarily waive my rights to a hearing, to representation by legal counsel at such a hearing, and to judicial review of this matter.

I hereby agree and stipulate to the above findings of fact and conclusions of law and understand that the order which follows hereafter may be completed and signed by the Real Estate Commissioner or may be rejected by the Real Estate Commissioner. I understand that, in accordance with the provisions of ORS 696.445(3), notice of this order shall be published in the Oregon Real Estate News Journal.

I agree once the Commissioner executes this stipulated order, I will accept service of the final order by email, and hereby waive the right to challenge the validity of service.

ORDER

IT IS HEREBY ORDERED that Samuel Johnson's property manager license be, and hereby is reprimanded.

IT IS SO STIPULATED:

IT IS SO ORDERED:

DocuSigned by: Samuel Johnson
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SAMUEL JOHNSON

DocuSigned by: Steven Strode
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STEVEN STRODE



Real Estate Commissioner

Date 8/25/2021 | 10:17 AM PDT

Date 8/25/2021 | 11:26 AM PDT

Date of Service: 08/25/2021