

REAL ESTATE AGENCY  
BEFORE THE REAL ESTATE COMMISSIONER

In the Matter of the Unlicensed Professional )  
Real Estate Activity of )  
HEMANT PRASAD )

---

FINAL ORDER BY DEFAULT AND ORDER  
TO CEASE AND DESIST

**PROCEDURAL HISTORY**

1.

1.1 On July 1, 2021, 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 Prasad's last known address of record with the Agency. The *Notice of Intent* was also mailed to Prasad by regular first class mail.

1.2 The notice was also emailed to Prasad at his email address of record.

1.3 Neither the certified mailing nor the first class mailing have been returned to the Agency. Over 20 (20 days) have elapsed since the mailing of the notice issued in this matter and no written request for hearing has been received.

2.

Based upon the foregoing and upon a review of the above described investigation reports, documents and files, the Real Estate Commissioner finds:

2.1 Oregon Administrative Rule 863-001-0006 states, in part, that a notice of intent is properly served when deposited in the United States mail, registered or certified mail, addressed to the real estate licensee or to any other person having an interest in a proceeding before the Commissioner at the licensee's or other person's last known address of record with OREA.

2.2 Prasad's last known address of record with the Agency was 8920 Emerald Park Dr. STE J, Elk Grove, CA 95624-2380.

2.3 A certified mailing of the *Notice of Intent* was mailed to Prasad at Prasad's last known address of record on July 1, 2021. 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 the above address for Prasad. The mailing in the handwritten envelope has not been returned to OREA. In accordance with ORS 40.135(1)(q), there is a presumption that the mailing properly addressed and placed with the U.S. Postal Service was delivered. That presumption has not been overcome by any evidence.

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*, the Agency's entire investigation file was designated as the record for purposes of presenting a prima facie case upon default, including submissions from Prasad 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, Prasad was not licensed to conduct professional real estate activity in Oregon.

3.2 On May 4, 2020, California broker Prasad advertised a Quality Inn & Suites + Roadway Inn hotel located at 9727 NE Sandy Blvd., Portland, OR 97220 (subject property) for sale on Loopnet.com. The Agency opened an investigation.

3.3 The Loopnet.com advertisement was created on April 2, 2020. The advertisement for the subject property stated the property was offered at \$11,900,000 at a 6.5% cap rate.

3.4 The subject property was owned by Darshan Randhawa (Randhawa) and Manjit Kaur (Kaur).

3.5 During an interview on February 17, 2021, Prasad stated he works for American Motel & Hotel Brokers (AMHB) who had listed the subject property from

March 2020 through August 2020.

3.6 The subject property listing agreement between AMHB and the sellers, Randhawa and Kaur commenced on March 2, 2020. The agreement stipulates a listing price of \$11,900,000 where Prasad would receive a 2.5% commission upon the successful sale of the subject property. The listing agreement was signed by Prasad as the “Designated Broker.”

3.7 Prasad said they received a few offers on the subject property and worked with a buyer who had to terminate due to failed financing.

3.8 Prasad acknowledged he did not have an Oregon real estate license and said this was the first time he listed a property within the state. He said it was his understanding that commercial properties with more than 1-4 units didn’t require a license in Oregon. Prasad said the sellers approached him directly about selling the property and he quickly listed for the sellers as a favor. Prasad he advertised the property on Loopnet.com.

#### **STATEMENT OF LAW**

4.

4.1 ORS 696.020(2) (2019 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) (2019 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(6) (2019 Edition) defines “compensation” as: valuable consideration for services rendered or to be rendered, whether contingent or otherwise.

4.4 ORS 696.010(17)(b)(c)(d)(i)(j) (2019 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: (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; (d) lists, offers, attempts or agrees to list real estate for sale; (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 procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate.

4.5 ORS 696.010(19) (2019 Edition) defines “real estate” as: includes leaseholds and licenses to use including, but not limited to, timeshare estates and timeshare licenses as defined in ORS 94.803, as well as any and every interest or estate in real property, whether corporeal or incorporeal, whether freehold or nonfreehold, whether held separately or in common with others and whether the real property is situated in this state or elsewhere.

4.6 Per ORS 696.040(2019 Edition) one act or transaction of professional real estate activity is sufficient to constitute engaging in professional real estate activity.

4.7 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.

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

### **ULTIMATE FINDINGS OF FACT**

#### 5.

5.1 Prasad engaged in unlicensed professional real estate activity.

5.2 Prasad engaged in unlicensed professional real estate activity with the expectation and intention to receive compensation.

5.3 Prasad’s actions constitute grounds to impose a civil penalty per ORS 696.990(4)(a) and (b), 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 Prasad is in default.

6.2 The material facts establish grounds to impose a civil penalty per ORS 696.990(4)(a) and (b), as well as entry of an order to cease and desist from engaging in any professional real estate activity under ORS 696.397.

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

## **OPINION**

7.

The Agency takes its consumer protection role very seriously. To protect consumers, an individual must be licensed to engage in professional real estate activity in Oregon (ORS 696.020(2)). Prasad did not have an Oregon real estate license, yet Prasad engaged in professional real estate activity by entering into a listing agreement, advertising the Oregon subject property, and attempting to negotiate the sale.

The specific violation is repeated here below:

(1) By entering into a listing agreement for the subject property located in Oregon and advertising the subject property while not licensed to do so, Prasad engaged in unlicensed professional real estate activity as defined in ORS 696.010(17)(b),(c),(d), (i) and (j) (2019 Edition), in violation of ORS 696.020(2) and ORS 696.040 (2019 Edition). ORS 696.020(2) 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 in this chapter. ORS 696.040 states one act or transaction of professional real estate activity is sufficient to constitute engaging in professional real estate activity, within the meaning of this chapter.

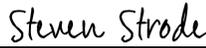
**ORDER**

IT IS HEREBY ORDERED that pursuant to ORS 696.397, Prasad immediately cease and desist from engaging in any professional real estate activity as defined in ORS 696.010(17)(a) to (n) unless Prasad 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, Prasad pay a civil penalty in the sum of \$500.00, said penalty to be paid to the General Fund of the State Treasury by paying the same to the Agency.

Dated this 29<sup>th</sup> day of July, 2021.

*OREGON REAL ESTATE AGENCY*

DocuSigned by:  
  
D141D267DDE14A0...  
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.

# Certificate of Service

On July 29, 2021, I mailed and emailed the foregoing Final Order by Default issued on this date in the Agency Case No. 2020-144.

By: First Class Mail

Hemant Prasad  
8920 Emerald Park Dr Ste J  
Elk Grove, CA 95624-2380

By Email:

Hemant Prasad  
spmprocessing@gmail.com

Jenifer Wetherbee  
Compliance Specialist