

SETTLEMENT AGREEMENT BETWEEN
MISSOURI REAL ESTATE APPRAISERS COMMISSION
AND ANDREW L. SAUERWEIN

Come now Andrew L. Sauerwein ("Licensee") and the Missouri Real Estate Appraisers Commission ("Commission") and enter into this settlement agreement for the purpose of resolving the question of whether Licensee's certification as a certified residential real estate appraiser will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline the Licensee's certification, and, additionally, the right to a disciplinary hearing before the Commission under § 621.110, RSMo.

Licensee acknowledges that Licensee understands the various rights and privileges afforded Licensee by law, including the right to a hearing of the charges against Licensee; the right to appear and be represented by legal counsel; the right to have all charges against Licensee proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Licensee; the right to present evidence on Licensee's own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against Licensee and, subsequently, the right to a disciplinary hearing before the Commission at which time Licensee may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against Licensee's certification. Being aware of these rights provided her by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this settlement agreement and agrees to abide by the terms of this document, as they pertain to Licensee.

Licensee acknowledges that Licensee has received a copy of the documents relied upon by the Commission in determining there was cause to discipline Licensee's certification, along with citations to law and/or regulations the Commission believes was violated.

For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Commission that Licensee's certification, numbered

¹ All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

2004004123 is subject to disciplinary action by the Commission in accordance with the provisions of Chapter 621 and §§ 339.500 to 339.549, RSMo.

Joint Stipulation of Fact and Conclusions of Law

1. The Commission is an agency of the state of Missouri created and established pursuant to § 339.507, RSMo, for the purpose of licensing all persons engaged in the practice of real estate appraisal in this state. The Commission has control and supervision of the licensed occupations and enforcement of the terms and provisions of Sections 339.500 to 339.549, RSMo.

2. Licensee, Andrew L. Sauerwein, holds a certification from the Commission as a certified residential real estate appraiser, license number 2004004123. The Commission issued Licensee's certification on February 20, 2004. Licensee's certification expires June 30, 2014. Licensee's Missouri certification was at all times relevant herein, and is now, current and active.

3. On or about February 29, 2012, Licensee and the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation (Illinois Division) entered into a Consent Order for the purposes of disciplining Licensee's Illinois Certified Residential Real Estate Appraiser license. The Consent Order stated:

- a. "The Division alleges between 2006 and 2011, Licensee committed a series of errors and omissions in developing and communicating reports for" nine different properties located in the cities of Jerseyville, Mount Olive, Wood River, Kane, Hartford, Trenton, Carrollton and New Douglas, Illinois. The series of errors and omissions, "if proven true" would constitute grounds to discipline Licensee pursuant to Illinois law and would be violations of the uniform Standards of Professional Appraisal Practice (USPAP) Standard Rules 1-1(b) and (c) and USPAP Competency Rule. Licensee admitted the allegations of violations as to the property in New Douglas, Illinois, and, Licensee knowingly entered into the Consent Order as to all the properties.
- b. Pursuant to the Consent Order, the Illinois Division indefinitely suspended Licensee's Illinois license for a minimum period of eighteen months and required Licensee to return his Illinois license to the Illinois Division. The Illinois Division also required Licensee to pay a \$300 fine

within 60 days of the effective date of the Consent Order and re-pass the licensing exam for certified residential appraisers prior to filing a petition for restoration of his Illinois license.

4. Licensee's conduct, as described in paragraph 3 above constitutes disciplinary action imposed by another state upon grounds for which revocation or suspension is authorized in this state, for which the Commission has cause to discipline Licensee's certification.

5. Cause exists for the Commission to take disciplinary action against Licensee's certification under § 337.532.2(18), RSMo, which states in pertinent part:

2. The Commission may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any state-certified real estate appraiser, state-licensed real estate appraiser, or any person who has failed to renew or has surrendered his or her certificate or license for any one or any combination of the following causes:

(18) Disciplinary action against the holder of a license, certificate or other right to practice any profession regulated pursuant to sections 339.500 to 339.549, imposed by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state[.]

Joint Agreed Disciplinary Order

6. Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Commission in this matter under the authority of § 621.045.3, RSMo.

7. The terms of discipline shall include that Licensee's certification shall be **REVOKED**. Licensee shall immediately return all indicia of certification to the Commission.

8. The parties to this Agreement understand that the Missouri Real Estate Commission will maintain this Agreement as an open record of the Commission as provided in Chapters 339, 610, 324, RSMo.

9. The terms of this settlement agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

10. Licensee, together with Licensee's heirs and assigns, and Licensee's attorneys, do hereby waive, release, acquit and forever discharge the Commission, its respective members and any of its employees,

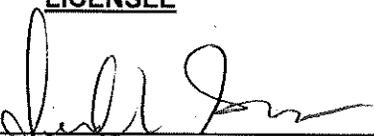
agents, or attorneys, including any former Commission members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement agreement or any portion thereof to be void or unenforceable.

11. If no contested case has been filed against Licensee, Licensee has the right, either at the time the settlement agreement is signed by all parties or within fifteen days thereafter, to submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the settlement agreement constitute grounds for denying or disciplining the certification of Licensee. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit this request to:

Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.

12. If Licensee has requested review, Licensee and Commission jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's certification and issue findings of act and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensee's certification. Effective the date the Administrative Hearing Commission determines that the agreement sets forth cause for disciplining Licensee's certification, the agreed upon discipline set forth herein shall go into effect.

LICENSEE



Andrew L. Sauerwein

Date 4/5/13

COMMISSION



Vanessa Beauchamp
Executive Director
Missouri Real Estate Appraisers Commission

Date 5-2-13