

SETTLEMENT AGREEMENT BETWEEN MISSOURI REAL ESTATE
APPRAISERS COMMISSION AND DARIN MARVIN ADAM

000042 DEC -3 8

Darin Marvin Adam (Adam) and the Missouri Real Estate Appraisers Commission (MREAC) enter into this Settlement Agreement for the purpose of resolving the question of whether Adam's certification as a state-certified residential real estate appraiser, No. RA003176, will be subject to discipline. Pursuant to § 536.060, RSMo 2000,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the MREAC under § 621.110, RSMo Cum. Supp. 2007. The MREAC and Adam jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo Cum. Supp. 2007.

Adam acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing against him at the hearing; the right to present evidence on his behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the charges pending against him; the right to a ruling on questions of law by the Administrative Hearing Commission; the right to a disciplinary hearing before

¹All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted.

the MREAC at which time Adam may present evidence in mitigation of discipline; the right to a claim for attorney fees and expenses; and the right to obtain judicial review of the decisions of the Administrative Hearing Commission and the MREAC.

Being aware of these rights provided to him by law, Adam 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 him.

Adam acknowledges that he has received a copy of documents that were the basis upon which the MREAC determined there was cause for discipline, along with citations to law and/or regulations the MREAC believes were violated. Adam stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREAC that Adam's certification as a state-certified residential real estate appraiser, Certificate No. RA003176, is subject to disciplinary action by the MREAC in accordance with the relevant provisions of Chapter 621, RSMo Cum. Supp. 2007, and §§ 339.500 to 339.549, RSMo, as amended.

The parties stipulate and agree that the disciplinary order agreed to by the MREAC and Adam in Part II herein is based only on the agreement set out in Part I herein. Adam understands that the MREAC may take further disciplinary action against him based on facts or conduct not specifically mentioned in this document that are either now known to the MREAC or may be discovered.

I.

Joint Stipulation of Facts and Conclusions of Law

Based upon the foregoing, the MREAC and Adam herein jointly stipulate to the following:

1. On or about June 28, 2006, Adam possessed Methamphetamine.
2. In the Circuit Court of Crawford County, Missouri, on January 2, 2008, Adam pled guilty to the Class C felony of possession of a controlled substance. Case No. 06A9-CR00700-01. He received a suspended imposition of sentence, and was placed on probation for three years.
3. The crime of possession of a controlled substance is an offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated pursuant to §§ 339.500 to 339.549, RSMo.
4. The crime of possession of a controlled substance is a crime involving moral turpitude.
5. Section 339.532.2, RSMo, provides in 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:

....

(4) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or the United

States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 339.500 to 339.549 for any offense of which an essential element is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed[.]

6. Adam's guilty plea to the crime of possession of a controlled substance, provides cause to discipline Adam's license pursuant to § 339.532.2(4), RSMo, in that Adam pled guilty in a criminal prosecution under the laws of the State of Missouri to an offense that is reasonably related to the qualifications, functions, and/or duties of a real estate appraiser and to an offense which involves moral turpitude.

II.
Joint Agreed Disciplinary Order

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the MREAC in this matter under the authority of §§ 536.060, 621.045.3, and 621.110, RSMo.

1. **Adam's certification is on probation.** Adam's certification as a state-certified residential real estate appraiser is hereby placed on PROBATION for the duration of his criminal probationary period, which is currently set to expire on January 2, 2011. The period of probation shall constitute the "disciplinary period." During the disciplinary period, Adam shall be entitled to practice as a state-certified residential real estate appraiser under §§ 339.500 to 339.549, RSMo, as amended, provided Adam adheres to all the terms of this agreement.

2. **Terms and conditions of the disciplinary period.** The terms and conditions of the disciplinary period are as follows:

a. Adam shall submit written reports to the MREAC by no later than May 1 and November 1, during each year of the disciplinary period stating truthfully whether there has been compliance with all terms and conditions of this Settlement Agreement. The first written report shall be submitted on or before May 1, 2009. The final written report shall be submitted to the MREAC 90 days prior to the end of the disciplinary period. Each written report shall be submitted no earlier than 30 days prior to the respective due date. Adam is responsible for assuring that the reports are submitted to and received by the MREAC.

b. During the disciplinary period, Adam shall maintain a log of all appraisal assignments as required by 20 CSR 2245-2.050. A true and accurate copy of the log shall be submitted to the MREAC by no later than May 1 and November 1 during each year of the disciplinary period. The first log shall be submitted on or before May 1, 2009. The last log shall be submitted to the MREAC 90 days prior to the end of the disciplinary period. Each log submitted shall be current to at least 30 days prior to the respective due date. Adam is responsible for assuring that the logs are submitted to and received by the MREAC. Upon MREAC request, Adam shall submit copies of his work samples for MREAC review.

c. During the disciplinary period, Adam shall not serve as a supervising appraiser to trainee real estate appraisers under 20 CSR 2245-3.005. Within ten days of the effective date of this Settlement Agreement, Adam shall advise each trainee real estate appraiser working under him that the supervisory relationship is terminated and comply with all other requirements of 20 CSR 2245-3.005 regarding the termination of the supervisory relationship.

d. During the disciplinary period, Adam shall keep the MREAC apprised at all times in writing of his current work and home addresses and telephone numbers at each place of residence and employment. Adam shall notify the MREAC in writing of any change in address or telephone number within 15 days of a change in this information.

e. Adam shall timely renew his certification and timely pay all fees required for certification renewal and comply with all other MREAC requirements necessary to maintain his certification in a current and active state.

f. During the disciplinary period, Adam shall comply with all provisions of §§ 339.500 through 339.549, RSMo; all rules and regulations promulgated thereunder; and all federal and state laws. "State" includes the state of Missouri and all other states and territories of the United States. Any cause to discipline Adam's certification as a real estate appraiser under § 339.532.2, RSMo, as amended, that

accrues during the disciplinary period shall also constitute a violation of this Settlement Agreement.

g. Adam shall accept and comply with reasonable unannounced visits from the MREAC's duly authorized agents to monitor compliance with the terms and conditions stated herein.

h. Adam shall appear before the MREAC or its representative for a personal interview upon the MREAC's written request.

i. If, at any time within the disciplinary period, Adam removes himself from the state of Missouri, ceases to be currently certified under the provisions of §§ 339.500 through 339.549, RSMo, or fails to keep the MREAC advised of all current places of residence and business, the time of absence, uncertified status, or unknown whereabouts shall not be deemed or taken as any part of the disciplinary period.

3. Upon the expiration of the disciplinary period, the certification of Adam shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the MREAC determines that Adam has violated any term or condition of this Settlement Agreement, the MREAC may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Adam's certification.

4. No additional discipline shall be imposed by the MREAC pursuant to the preceding paragraph of this Settlement Agreement without notice and opportunity for hearing before the MREAC as a contested case in accordance with the provisions of Chapter 536, RSMo.

5. This Settlement Agreement does not bind the MREAC or restrict the remedies available to it concerning any future violations by Adam of §§ 339.500 to 339.549, RSMo, as amended, or the regulations promulgated thereunder, or the terms and conditions of this Settlement Agreement.

6. This Settlement Agreement does not bind the MREAC or restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Settlement Agreement that are either now known to the MREAC or may be discovered.

7. If any alleged violation of this Settlement Agreement occurred during the disciplinary period, the parties agree that the MREAC may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. Adam agrees and stipulates that the MREAC has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

8. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

9. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained 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. The parties to this Settlement Agreement understand that the MREAC will maintain this Settlement Agreement as an open record of the MREAC as required by Chapters 339, 610, and 620, RSMo, as amended.

11. Adam, together with his partners, shareholders, officers, directors, heirs, assigns, agents, employees, representatives and attorneys, does hereby waive, release, acquit and forever discharge the MREAC, its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo (as amended), or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Settlement Agreement in that it

survives in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

12. Adam understands that he may, either at the time the Settlement Agreement is signed by all parties, or within 15 days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Adam's certification. If Adam desires the Administrative Hearing Commission to review this Settlement Agreement, Adam may submit his request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 West High Street, P.O. Box 1557, Jefferson City, Missouri 65101.

13. If Adam requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Adam's certification. If Adam does not request review by the Administrative Hearing Commission, the Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREAC.

LICENSEE



Darin Marvin Adam

Date 11/25/08

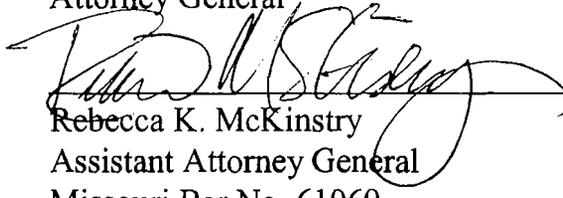
MISSOURI REAL ESTATE APPRAISERS
COMMISSION



Vanessa Beauchamp, Executive Director

Date 12-3-08

JEREMIAH W. (JAY) NIXON
Attorney General



Rebecca K. McKinstry
Assistant Attorney General
Missouri Bar No. 61069

7th Floor, Broadway State Office
221 West High Street
P.O. Box 899
Jefferson City, MO 65102
Telephone: 573-751-5604 5406 RKM
Telefax: 573-751-5660
~~Margaret.Landwehr@ago.mo.gov~~
rebecca.mckinstry@ago.mo.gov RKM
Attorneys for Missouri Real Estate Appraisers
Commission