

**SETTLEMENT AGREEMENT BETWEEN**  
**MISSOURI REAL ESTATE APPRAISERS COMMISSION AND DIANE PARKER**

Come now Diane Parker ("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,<sup>1</sup> 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 investigative report and other 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 2001012240 is subject to disciplinary action by the Commission in accordance with the provisions of Chapter 621 and §§ 339.500 to 339.549, RSMo.

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

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, Diane Parker, holds a certification from the Commission as a certified residential real estate appraiser, license number 2001012240. The Commission issued Licensee's certification on June 5, 2001. 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 July 2, 2012, Licensee completed the online renewal application to renew her certification. On the renewal application, Licensee attested that she had completed the required twenty-eight (28) hours of continuing education for the period July 1, 2010 through June 30, 2012.

4. On or about August 2, 2012, the Commission sent Licensee a letter stating that she had been randomly selected by the Commission for an audit of her continuing education hours. The letter stated that Licensee was required to provide proof of the required 28 hours to the Commission no later than September 3, 2012. The letter also stated that Licensee's failure to do so could result in disciplinary action against Licensee's license.

5. On or about September 4, 2012, the Commission received a letter from Licensee dated September 3, 2102. The letter stated, in part:

I have waited to address the commission on my CE hours because of fear of losing my license. I have only acquired the USPAP class for this cycle. I had every intention to complete the hours, but was not physically and financially able to do so by June 30, 2012. I was planning on taking some on line classes towards the end of June to complete my hours needed when my computer crashed and lost everything. I have spent a lot of money through the years – updating software and CE classes with very little income to show for it. I suppose I should have filed a inactive status for this cycle, but again that costs too.

I understand if the commission decides to terminate my license, but wish the commission would reconsider due to my financial hardship. I have not performed any appraisal work in awhile, but didn't want to lose what I had worked so hard to attain.

6. With her September 3, 2012 letter, Licensee also provided five continuing education course completion certificates. Only one, completion of the National USPAP Update Course on June 13, 2012 for a total of seven continuing education hours was taken during the correct reporting period. The other four were completed between April 1 and April 16, 2010 and therefore do not count toward the required 28 hours because they were not taken between July 1, 2010 and June 30, 2012.

7. Section 339.519.2, RSMo states:

The commission shall require every state-certified or state-licensed real estate appraiser to provide satisfactory evidence of the completion of the required continuing education hours as promulgated by the appraiser qualifications board.

8. Section 339.525.1, RSMo states:

To obtain a renewal certificate or license, a state certified real estate appraiser or state licensed real estate appraiser shall make application and pay the prescribed fee to the commission not earlier than one hundred twenty days nor later than thirty days prior to the expiration date of the certificate or license then held. With the application for renewal, the state certified real estate appraiser or state licensed real estate appraiser shall present evidence in the form prescribed by the commission of having completed the continuing education requirements for renewal specified in section 339.530.

9. Section 339.530.1, RSMo states:

As a prerequisite of renewal of certification or licensure, a state-certified real estate appraiser or state-licensed real estate appraiser shall present evidence satisfactory to the commission of having met the continuing education requirements as provided in this section. The basic continuing education requirements for renewal of certification or licensure shall be the completion by the state-certified real estate appraiser or state-licensed real estate appraiser, during the immediately preceding term of certification or licensure, of continuing education as prescribed by the appraiser qualifications board and approved by the commission.

10. Regulation 20 CSR 2245-8.010 states, in relevant part:

(1) Each licensee who holds a certificate or license shall complete, during the two (2)- year license period prior to renewal, as a condition precedent to certification or license renewal, the required number of hours of real estate appraisal instruction approved for continuing education credit by the Missouri Real Estate Appraisers Commission as specified in section (2) of this rule. Licensees shall maintain their evidence of course participation or course completion certificates for the period set for appraisal file retention. Such evidence shall be submitted upon request by the commission.

(2) Licensees are required to complete twenty- eight (28) hours of continuing education during the two (2)-year renewal cycle. The commission may require specific courses of continuing education. A licensee shall provide verification of completion of continuing education by affidavit at the time of renewal. The affidavit shall contain a truthful statement of approved courses by the commission of continuing education taken by the licensee.

11. Licensee's conduct, as described in paragraphs 3 through 6 above constitutes failing to meet the minimum qualifications for renewal established pursuant to §§ 339.500 to 339.549, RSMo, for which the Commission has cause to discipline Licensee's certification.

12. Licensee's conduct, as described in paragraphs 3 through 6 above, constitutes incompetency, misconduct, dishonesty, fraud and misrepresentation in the performance of the functions and duties of a certified appraiser for which the Commission has cause to discipline Licensee's certification.

13. Licensee's conduct as described in paragraphs 3 through 6 above constitutes violation of §§ 339.500 to 339.549, RSMo, and regulations promulgated thereto, as described in paragraphs 7 through 10 above, for which the Commission has cause to discipline Licensee's certification.

14. Licensee's conduct as described in paragraphs 3 through 6 above constitutes violation of a professional trust or confidence for which the Commission has cause to discipline Licensee's certification.

15. Licensee's conduct as described in paragraphs 3 through 6 above constitutes making a material misstatement or misrepresentation on an application for renewal of certification for which the Commission has cause to discipline Licensee's certification.

16. Cause exists for the Commission to take disciplinary action against Licensee's certification under § 337.532.2(2), (5), (10), (14), and (19), 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:

...

(2) Failing to meet the minimum qualifications for certification or licensure or renewal established by sections 339.500 to 339.549;

...

(5) Incompetency, misconduct, gross negligence, dishonesty, fraud, or misrepresentation in the performance of the functions or duties of any profession licensed or regulated by sections 339.500 to 339.549;

...

(10) Violating, assisting or enabling any person to willfully disregard any of the provisions of sections 339.500 to 339.549 or the regulations of the commission for the administration and enforcement of the provisions of sections 339.500 to 339.549;

...

(14) Violation of any professional trust or confidence;

...

(19) Making any material misstatement, misrepresentation, or omission with regard to any application for licensure, or certification, or for license or certification renewal. As used in this section, "material" means important information about which the commission should be informed and which may influence a licensing decision[.]

#### Joint Agreed Disciplinary Order

17. 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.

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

19. 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.

20. 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.

21. 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.

22. 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.**

23. 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

Diane Parker  
Diane Parker

Date 11-2-2012

COMMISSION

Vanessa Beauchamp  
Vanessa Beauchamp  
Executive Director  
Missouri Real Estate Appraisers Commission

Date 11-6-12