

BEFORE THE  
ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI

000027 MAR-20

Missouri Real Estate )  
Appraisers Commission, )  
 )  
Petitioner, )  
v. )  
 )  
Gordon Cook, )  
 )  
Respondent. )

Case No. 09-1567 RA

**FILED**

MAR 03 2010

ADMINISTRATIVE HEARING  
COMMISSION

**JOINT MOTION FOR CONSENT ORDER,  
JOINT STIPULATION OF FACTS AND CONCLUSIONS OF LAW,  
WAIVER OF HEARINGS  
BEFORE THE ADMINISTRATIVE HEARING COMMISSION  
AND THE MISSOURI REAL ESTATE APPRAISERS COMMISSION,  
AND DISCIPLINARY ORDER**

Respondent Gordon Cook (“Cook”) and Petitioner Missouri Real Estate Appraisers Commission (“MREAC”) enter into this *Joint Motion for Consent Order, Joint Stipulation of Facts and Conclusions of Law, Waiver of Hearings Before the Administrative Hearing Commission and Missouri Real Estate Appraisers Commission, and Disciplinary Order* (“Joint Stipulation”) for the purpose of resolving the Complaint filed against Respondent. Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission (“Commission”)(1 CSR 15-3.446(4)) and pursuant to the terms of § 536.060, RSMo<sup>1</sup>, as it is made applicable to the Commission by

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<sup>1</sup>All references are to the 2000 Revised Statutes of Missouri unless otherwise noted.

§ 621.135, RSMo, the parties move for a consent order and waive the right to a hearing and decision in the above-styled case by the Commission, and, additionally, the right to a disciplinary hearing before the MREAC pursuant to § 621.110, RSMo, Cum. Supp. 2008 and jointly stipulate and agree that a final disposition of this matter may be effectuated as described below.

Cook 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 the MREAC at which time Cook 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 Cook by operation of law; Cook knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Stipulation. Cook further agrees to abide by the terms of this document as they pertain to him.

Cook acknowledges that he received a copy of the Complaint in this case, which was filed with the Commission on November 19, 2009. Cook stipulates that the factual allegations contained in this Joint Stipulation are true and stipulates with the MREAC that Cook's license as a state licensed real estate appraiser, license no. 2006024316, is subject to disciplinary action by the MREAC in accordance with the provisions of Chapter 621, RSMo, and § 339.532.3, RSMo.

### **I. JOINT STIPULATION**

Based upon the foregoing, the MREAC and Cook jointly stipulate to the following findings of fact and conclusions of law in lieu of the facts and conclusions of law as alleged in the Complaint filed in this case, and request that the Commission adopt the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Commission's Findings of Fact and Conclusions of Law.

#### **JOINT PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Missouri Real Estate Appraisers Commission ("MREAC") was established pursuant to § 339.507, RSMo, for the purpose of executing and enforcing the provisions of §§ 339.500 through 339.549, RSMo, the Missouri Certified and Licensed Real Estate Appraisers Act.

2. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 339.532.2, RSMo.

3. Cook is licensed by the MREAC as a state-licensed real estate appraiser, license no. 2006024316 . Such license is and was at all times relevant to this action current and active.

4. Section 339.532.2, RSMo, Cum. Supp. 2008, provides in part:

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:

\* \* \* \* \*

(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;

(6) Violation of any of the standards for the development or communication of real estate appraisals as provided in or pursuant to sections 339.500 to 339.549;

(7) Failure to comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation;

(8) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(9) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

(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;

\* \* \* \* \*

(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.

(19) Making any material misstatement, misrepresentation, or omission with regard to any application for licensure or certification renewal. As used in this sections “**material**” means important information about which the commission should be informed and which may influence licensing decision;

\* \* \* \* \*

5. Section 339.532.3, RSMo, Cum. Supp. 2008, states:

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the commission may, singly or in combination, publicly censure or place the person named in the complaint on probation on such terms and conditions as the commission deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke, the certificate or license. The holder of a certificate or license revoked pursuant to this section may not obtain certification as a state-certified real estate appraiser or licensure as a state-licensed real estate appraiser for at least five years after the date of revocation.

**Count I: Oklahoma 2006 Disciplinary Action**

6. On or about November 20, 2006, the Oklahoma Real Estate Appraiser Board (“Oklahoma Board”) and Cook entered into a consent order in the case styled “In the Matter of Roger Smith and Gordon Gook, Respondents”, Case No. 05-008 Consent Order, which disciplined Cook’s Oklahoma trainee real estate appraiser license for violation of the Uniform Standards of Professional Appraisal Practice (USPAP).

7. In the Oklahoma Order, Cook stipulated that he appraised real property commonly known as 307 E. 44<sup>th</sup> Street North, Tulsa, Oklahoma, and that the appraisal contained the following violations of the 2004 USPAP: Ethics Rule regarding Conduct, Competency Rule, Standard 1, Standard Rules 1-1(a), 1-1(b), 1-1(c) and 1-2(e)(1) and (4), Standard 2, and Standard Rules 2-1(a) & (b).

8. The Oklahoma Real Estate Appraiser Board disciplined Cook’s Oklahoma trainee real estate appraiser license upon grounds for which revocation or suspension is authorized in this state.

9. Section 339.535, RSMo, requires compliance with USPAP, as follows:

“State certified real estate appraisers and state licensed real estate appraisers shall comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation.”

10. Cause exists to discipline Cook’s real estate appraiser license pursuant to § 339.532.2(18), RSMo, Cum. Supp. 2008, because the State of Oklahoma Real Estate Appraiser Board disciplined Cook’s Oklahoma trainee real estate appraiser license upon

grounds for which revocation or suspension is authorized in this state in that Cook admitted conduct that would be cause for discipline in Missouri pursuant to §§ 339.532.2(5), (6), (7), (8), (9) and (10), RSMo, Cum. Supp. 2008.

**Count II: Oklahoma 2007 Disciplinary Action**

11. On or about May 19, 2008, the Oklahoma Real Estate Appraiser Board (“Oklahoma Board”) made a decision and recommendation on discipline as to Cook in the case styled “In the Matter of Gordon Gook and Kari B. Sloan, Respondents”, Case No. 07-003 Board’s Decision on Disciplinary Hearing Panel Recommendation, which disciplined Cook’s Oklahoma real estate appraiser license, license no. 12631 SLA, for violation Oklahoma Administrative Code, 600: 10-1-16(a), (e)(1), (e)(3), and (g).

12. Cook signed a report of an appraisal for property located at 3225 SW 48<sup>th</sup> Street, Oklahoma City, Oklahoma, that was completed by Kari Sloan.

13. Cook signed the report as a supervisor.

14. Cook was not qualified to serve as a supervisor based upon he had not been licensed for at least three years at the time of the appraisal, he did not have on file at the Board office an form establishing a supervisor-trainee relationship between himself and Respondent Sloan; he had been disciplined by the Board within two years prior to the appraisal, he had been disciplined by the Board and not received permission from the Board to serve as a supervisor.

15. Oklahoma Administrative Code, 600: 10-1-16 states in pertinent part:

(a) Trainee Appraisers shall report to the Board, on a form prescribed by the Board, the identity of any supervisory appraiser. Trainee Appraisers may have more than one supervisory appraiser. When a Trainee Appraiser has more than one supervisory appraiser, each shall be reported to the Board as indicated above.

...

(e) A supervisory appraiser shall meet the following requirements:

(1) have been a state Licensed or Certified Appraiser for a period of at least 3 years;

...

(3) be in good standing with the Board and not subject to any disciplinary action within the last two years that affects the supervisor's legal eligibility to engage in appraisal practice[.]

...

16. 20 CSR 2245-3.005(5), requires the following supervisors in Missouri:

...

(A) The registrant shall be subject to direct supervision by a Missouri certified appraiser in good standing with the commission for the prior two years. . .

...

(D) The registrant and a supervising appraiser shall notify the commission of a newly created supervisory relationship and submit an affidavit from the supervising appraiser acknowledging the supervisory relationship prior to the registrant performing appraisal services under the supervising appraiser.

...

(F) The Missouri certification of the supervising appraiser shall be in good standing and not subject to revocation or suspension within the last two (2) years. . .

...

17. Cause exists to discipline Cook's real estate appraiser license pursuant to § 339.532.2(18), RSMo, because the State of Oklahoma Real Estate Appraiser Board disciplined Cook's Oklahoma real estate appraiser license upon grounds for which revocation or suspension is authorized in this state in that Cook admitted conduct that would be cause for discipline in Missouri pursuant to §§ 339.532.2(5) and (10) RSMo, Cum. Supp. 2008.

**Count III: Failure to Disclose**

18. Cook's license was originally issued on August 10, 2006, and Cook renewed his license online with the MREAC on or about June 30, 2008.

19. Cook verified on the online renewal the following, "Since my last renewal, I have not had my real estate appraiser license or certification suspended, revoked, placed on probation or otherwise disciplined in any jurisdiction."

20. Cook failed to disclose the Oklahoma discipline on 2008 Online Missouri Renewal form.

21. Cause exists to discipline Cook's real estate appraiser license pursuant to § 339.532.2(19), RSMo, Cum. Supp. 2008, because the State of Oklahoma Real Estate Appraiser Board disciplined Cook's Oklahoma trainee real estate appraiser and his real estate appraiser's license and Cook failed to disclose this to the Board on his renewal application, which is information that is a material misstatement, misrepresentation, or omission that may have had influence on the licensing decision.

## II. JOINT DISCIPLINARY ORDER

Based on the foregoing, the parties hereby mutually agree and stipulate that the following shall constitute the order regarding discipline of Cook's license as a state licensed real estate appraiser, subject to the following terms and conditions, and entered by the MREAC in this matter under the authority of §§ 536.060 and 621.110, RSMo Cum. Supp. 2008. This disciplinary order shall become effective immediately upon the issuance of the consent order of the Commission without further action by either party:

1. **Cook's license is revoked and all indicia of licensure shall be surrendered immediately.** Cook's license as a state licensed real estate appraiser is hereby REVOKED and ALL INDICIA OF LICENSURE SHALL BE SURRENDERED IMMEDIATELY upon this Joint Stipulation becoming effective.

2. This Joint Stipulation does not bind the MREAC or restrict the remedies available to it concerning any future violations by Cook of Chapter 339, §§ 339.500 through 339.549, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Joint Stipulation.

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

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

5. The terms of this Joint Stipulation are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Joint Stipulation 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.

6. The parties to this Joint Stipulation understand that the MREAC will maintain this Joint Stipulation as an open record of the MREAC as required by Chapters 339, 610, and 324, RSMo, as amended.

7. Cook, together with his heirs, assigns, agents, partners, 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 Joint Stipulation. The parties acknowledge that this paragraph is severable from the remaining portions of the Joint Stipulation 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.

### III. CONCLUSION

In consideration of the foregoing, the parties consent to the entry of record and approval of this Joint Stipulation and to the termination of any further proceedings before the Commission based upon the complaint filed by the MREAC in the above-captioned cause.

RESPONDENT

  
\_\_\_\_\_  
Gordon Cook                      2/13/10  
Date

PETITIONER

Missouri Real Estate Appraisers  
Commission

By:   
\_\_\_\_\_  
Vanessa Beauchamp                      3/2/10  
Date  
MREAC Executive Director

CHRIS KOSTER  
Attorney General

  
\_\_\_\_\_  
SUSANNA MCCRIMMONS  
Assistant Attorney General  
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ATTORNEYS FOR PETITIONER

Before the  
Administrative Hearing Commission  
State of Missouri



MISSOURI REAL ESTATE APPRAISERS )  
COMMISSION, )

Petitioner, )

vs. )

GORDON COOK, )

Respondent. )

No. 09-1567 RA

**CONSENT ORDER**

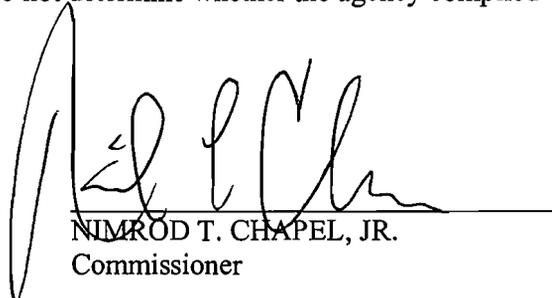
The licensing authority filed a complaint. Section 621.045, RSMo Supp. 2009, gives us jurisdiction.

On March 3, 2010, the parties filed a joint motion for consent order, joint stipulation of facts and conclusions of law, and waiver of hearings. Our review of the document shows that the parties have stipulated to certain facts and waived their right to a hearing before us. Because the parties have agreed to these facts, we incorporate them into this order and adopt them as stipulated. *Buckner v. Buckner*, 912 S.W. 2d 65, 70 (Mo. App., W.D. 1995). We conclude that the licensee is subject to discipline under § 339.532.2(18) and (19), RSMo Supp. 2009. We incorporate the parties' proposed findings of fact and conclusions of law into this Consent Order. We certify the record to the licensing agency under § 621.110, RSMo Supp. 2009.

The only issue before this Commission is whether the stipulated conduct constitutes cause to discipline the license. The appropriate disciplinary action is not within our power to decide; that is subject to the licensing authority's decision or the parties' agreement. Section 621.110, RSMo Supp. 2009.

No statute authorizes us to determine whether the agency has complied with the provisions of § 621.045.4. RSMo Supp. 2009. We have no power to superintend agency compliance with statutory procedures. *Missouri Health Facilities Review Comm. v. Administrative Hearing Comm'n*, 700 S.W. 2d 445, 450 (Mo. banc 1985). Therefore, we do not determine whether the agency complied with such procedures.

SO ORDERED on March 9, 2010.

  
NIMROD T. CHAPEL, JR.  
Commissioner