

SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE APPRAISERS COMMISSION
AND
PHILIP M. MANNINO

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Philip M. Mannino (“Mannino”) and the Missouri Real Estate Appraisers Commission (“MREAC”) enter into this Settlement Agreement for the purpose of resolving the question of whether Mannino’s certification as a state-certified residential real estate appraiser, no. 2007028502, 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. 2009. The MREAC and Mannino jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo Cum. Supp. 2009.

Mannino 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

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

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 Mannino 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, Mannino 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.

Mannino 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. Mannino stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREAC that Mannino's certification as a state-certified residential real estate appraiser, certificate no. 2007028502, is subject to disciplinary action by the MREAC in accordance with the relevant provisions of Chapter 621, and Sections 339.500 to 339.549, RSMo, as amended.

The parties stipulate and agree that the disciplinary order agreed to by the MREAC and Mannino in Part II herein is based only on the agreement set out in Part I herein.

Mannino 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 Mannino herein jointly stipulate to the following:

1. On or about February 10, 2008, Mannino supervised the preparation and/or prepared an appraisal report for 2918 Keokuk St., #20, St. Louis, MO 63118 (“the Keokuk Appraisal Report”).

2. The preparation of the Keokuk Appraisal Report was to be prepared in compliance with the Uniform Standards of Professional Appraisal Practice, 2008 edition (USPAP). The cited provisions of USPAP, 2008 edition, are attached hereto as Exhibit A.

3. Based on the following errors and omissions in preparation of the Keokuk Appraisal Report, Mannino is in violation of Section 339.535, RSMo., USPAP Standards 1 and 2, and USPAP Standard Rules 1-1(b), 1-4(b), 1-5(b), 1-6(a), 2-1(b), 2-2(a) and 2-4:

i. Mannino incorrectly used comparables that were sold more than six months prior to the effective appraisal date and may not have reflected market conditions at the time of appraisal;

- ii. Mannino incorrectly used in his sales his comparison approach property out of the area for Comparable 2;
- iii. Mannino incorrectly used comparable sales and comparable rentals that were all dissimilar in gross building area. Two of the three comparable sales and rentals varied by more than twenty percent, comparable 3 varied by more than fifteen percent;
- iv. Mannino failed to support the property's effective age;
- v. Mannino incorrectly made low and unsupported adjustments for central air and garages;
- vi. Mannino used a unit housing sale price range for two to four unit housing that was too narrow and failed to disclose significantly lower sales prices in the neighborhood;
- vii. Mannino's predominant price for two to four unit housing was overstated;
- viii. Mannino omitted and failed to analyze the prevalence of REOs, cash sales, and concessions;
- ix. Mannino incorrectly reported a trend of increasing neighborhood property values when it should have been declining;
- x. Mannino failed to support the site value estimate;

xi. Mannino failed to reconcile his estimated value that was thirty three percent higher than a prior sale seventeen months earlier;

xii. Mannino failed to explain in his reconciliation to the Sales Comparison Approach why the subject property's value per room for the subject property was higher than the adjusted sales price per room for all three comparable sales.

xiii. Mannino incorrectly reported that the neighborhood Demand/Supply trend was in balance when a 6:4 ratio of current comparable offerings to comparable sales existed within the last twelve months.

4. Section 339.535, RSMo, States:

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.

5. Based on the facts and violations set forth above, cause exists to discipline Mannino's certification as a state-certified residential real estate appraiser pursuant to § 339.532.2 (5), (6), (7), (8), (9), (10) and (14), RSMo, which state:

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:

* * *

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;

* * *

(14) Violation of any professional trust or confidence;

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, RSMo, and §§ 621.045.3 and 621.110, RSMo Cum. Supp. 2008.

6. **Mannino's certification is on probation.** Mannino's certification as a state-certified residential real estate appraiser is hereby placed on PROBATION for a period of TWO (2) YEARS. The period of probation shall constitute the "disciplinary period." During the disciplinary period, Mannino shall be entitled to practice as a state-certified residential real estate appraiser under Sections 339.500 to 339.549, RSMo, as amended, provided Mannino adheres to all the terms of this agreement.

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

A. Mannino shall submit written reports to the MREAC by no later than June 1 and December 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 June 1, 2010. 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. Mannino is responsible for assuring that the reports are submitted to and received by the MREAC.

B. During the disciplinary period, Mannino 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 June 1 and December 1 during each year of the disciplinary period. The first log shall be submitted on or before June 1, 2010. 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. Mannino is responsible for assuring that the logs are submitted to and received by the MREAC. Upon MREAC request, Mannino shall submit copies of his work samples for MREAC review.

F. During the period of probation, Mannino shall not sign appraisal reports as a supervising appraiser.

G. During the disciplinary period, Mannino 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, Mannino 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.

H. During the disciplinary period, Mannino 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. Mannino shall notify the MREAC in writing of any change in address or telephone number within 15 days of a change in this information.

I. Mannino 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.

J. During the disciplinary period, Mannino 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 Mannino'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.

K. Mannino 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.

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

M. If, at any time within the disciplinary period, Mannino 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.

8. Upon the expiration of the disciplinary period, the certification of Mannino shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the MREAC determines that Mannino 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 Mannino's certification.

9. 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.

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

11. 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.

12. 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. Mannino agrees and stipulates that the MREAC has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

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

14. 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.

15. 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 324, RSMo, as amended.

16. Mannino, together with his partners, 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.

17. Mannino understands that he may, either at the time the Settlement Agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Mannino's certification. If Mannino desires the Administrative Hearing Commission to review this Settlement Agreement, Mannino may submit his request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65102.

18. If Mannino 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 Mannino's certification. If Mannino does not request review by the Administrative Hearing Commission, this Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREAC.

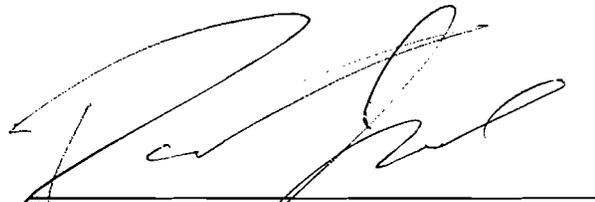
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 1/17/10
Philip M. Mannino Date

Missouri Real Estate Appraisers
Commission


Vanessa Beauchamp, Executive Director
Date: 1-21-10

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