

SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE APPRAISERS COMMISSION
AND
RAY DILLABOUGH

Ray Dillabough (Dillabough) and the Missouri Real Estate Appraisers Commission (MREAC) enter into this Settlement Agreement for the purpose of resolving the question of whether Dillabough's certification as a state-certified residential real estate appraiser, no. RA003184, 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. 2008. The MREAC and Dillabough jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo Cum. Supp. 2008.

Dillabough 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

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

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 Dillabough 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, Dillabough 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.

Dillabough 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. Dillabough stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREAC that Dillabough's certification as a state-certified residential real estate appraiser, certificate no. RA003184, is subject to disciplinary action by the MREAC in accordance with the relevant provisions of Chapter 621, RSMo Cum. Supp. 2008, and §§ 339.500 through 339.549, RSMo, as amended.

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

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.

2. Section 339.532.2, RSMo, Cum. Supp. 2008 states 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 ["USPAP"] 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[.]

3. Respondent Ray Dillabough ("Dillabough") is certified by the Commission as a state-certified residential real estate appraiser, certificate no. RA003184. Such certification is and was at all times relevant to this action current and active.

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.

South Farm Road Appraisal Report

5. On October 17, 2008, Dillabough completed and signed a appraisal report for Residential real estate located at 6409 S. Farm Road 193 ("the South Farm Road property"). The effective date of the appraisal report was October 15, 2008. This appraisal valued the property at \$300,000. This appraisal shall be referred to hereinafter as the "South Farm Road Appraisal Report."

6. Dillabough was required to develop and report the results of the South Farm Road Appraisal in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), 2008 Edition.

7. The South Farm Road Appraisal Report was prepared for Home Focus Valuation, a Missouri limited liability company.

8. In preparation of the South Farm Road Appraisal report, Dillabough made significant and substantial errors of omission and commission, including, but not limited to:

a. Incorrectly reporting the zoning as R1, when it is an A-R, agricultural residence district.

b. Providing no analysis of opinion regarding the site value in the report.

c. Insufficient reconciliation of the quality and quantity of data available in the relied upon in the report.

d. Failing to analyze and reconcile the applicability or suitability of the approaches used to arrive at the value conclusion contained in the report.

e. Failing to adjust and take into account market conditions for differences between comparables and subject property.

f. Failing to include necessary comments for methods, techniques and reasoning for support of conclusions and valuation.

9. In the preparation of the Sales Comparison Analysis in the South Farm Road Appraisal Report, Dillabough made significant and substantial errors of omission and commission, including, but not limited to:

a. Using inappropriate comparables for the subject property, and not disclosing that more similar comparable sales were available on the market at the time of the appraisal.

b. Stating subject is comparable with neighborhood after making proper adjustments but failing to make all the needed adjustments thus leading to an inflated value for the subject property.

c. Choosing comparables that were ranch style homes for a subject property that was an earthberm home, and claiming the homes were similar in style without making any adjustments for the difference in styles.

d. Choosing comparables that were not locationally, physically and functionally the most similar to the subject property.

e. Using adjusted sales of comparable sales that had a wide range from \$258,000 to \$315,000, which was too wide to be reliable as an indicator of the subjects value.

f. Documenting the actual age and effective age of the comparables as the same, which lead to an inflated price for the subject property.

10. The South Farm Road Appraisal Report overestimates the value, is not credible and misleading.

11. The MREAC received a complaint on November 6, 2008, concerning the South Farm Road Appraisal Report.

12. On December 29, 2008, the MREAC received Dillabough's response to the complaint.

13. Dillabough's response included that he was not able to locate his logs for 2004 and 2005, and his 2004 work file that the MREAC had requested.

14. Section 339.537, requires the following concerning the retention of records by state-certified real estate appraisers:

“State certified real estate appraisers and state licensed real estate appraisers shall retain originals or true copies of contracts engaging an Appraisers services for appraisal assignments, specialized appraisal services, appraisal reports, and supporting data assembled and formulated in preparing appraisal reports, for five years. The period for retention of the records applicable to each engagement of the services of the state-certified real estate appraiser or state-licensed real estate appraiser shall run from the date of the submission of the appraisal report to the client. Upon requests by the commission, these records shall be made available by the state-certified real estate appraiser or state-licensed real estate appraiser for inspection and copying at his or her expense, by the commission on reasonable notice to the state-certified real estate appraiser or state-licensed real estate appraiser...”

15. 20 CSR 2245-2.050, requires the following:

(1) Every licensee shall maintain a summarized listing of the real estate appraisal assignments which the licensee is required to retain under section 339.537, RSMo. This summarized listing shall include, at a minimum, the following information:

- (A) Date the appraisal report is signed;
- (B) Specific location or address of the property appraised;
- (C) Client's name;
- (D) Appraiser(s) involved in the appraisal;
- (E) Property type;
- (F) Appraised value;

- (G) Type of form used, if any; and
- (H) Actual number of hours used to complete the appraisal.

16. Based on Dillabough's errors and omissions in developing and reporting the results of the South Farm Road Appraisal, as set forth above, Dillabough committed substantial errors of omission and commission that significantly affected the appraisal in violation of USPAP Standard 1 and SR 1-1(b).

17. Based on Dillabough's errors and omissions in developing and reporting the results of the South Farm Road Appraisal, as set forth above, Dillabough failed to collect, verify, and analyze all information necessary for credible results in violation of USPAP Standard 1 and SR 1-4(a).

18. Based on Dillabough's errors and omissions in developing and reporting the results of the South Farm Road Appraisal, as set forth above, Dillabough by not completing analysis of opinion of site value committed substantial errors of omission and/or commission that significantly affected the appraisal in violation of USPAP Standard 1 and SR 1-4(b).

19. Based on Dillabough's errors and omissions in developing and reporting the results of the South Farm Road Appraisal, as set forth above, Dillabough failed to reconcile the quality and quantity of data available and analyzed with approaches used in violation of USPAP Standard 1 and SR 1-6(a).

20. Based on Dillabough's errors and omissions in developing and reporting the results of the South Farm Road Appraisal, as set forth above, Dillabough failed to reconcile

the applicability or suitability of the approaches used to arrive at the value conclusion in violation of USPAP Standard 1 and SR 1-6(b).

21. Based on Dillabough's errors and omissions in developing and reporting the results of the South Farm Road Appraisal, as set forth above, Dillabough failed to clearly and accurately set forth the appraisal in a manner that would not be misleading and violated USPAP Standard 2 and SR 2-1(a).

22. Based on Dillabough's errors and omissions in developing and reporting the results of the South Farm Road Appraisal, as set forth above, Dillabough failed to prepare a report that contained sufficient information to enable the intended users of the appraisal to understand the report properly and violated USPAP Standard 2 and SR 2-1(b).

23. By failing to provide adequate support for the reasoning and conclusions in the Sales Comparison Analysis in the South Farm Road Appraisal Report, as set forth above, Dillabough failed to summarize the information analyzed, the appraisal procedures followed, and the reasoning that supports the analysis, opinions, and conclusions, in violation of USPAP Standard 2 and SR 2-2(b)(viii).

24. Based on Dillabough's errors and omissions in developing and reporting the results of the South Farm Road Appraisal, as set forth above, Dillabough communicated results in a misleading manner, in violation of the USPAP Ethics Rule.

25. Dillabough's conduct demonstrates incompetency, in the performance of the functions and duties of a real estate appraiser, providing cause to discipline his state certified real estate appraiser certificate pursuant to § 339.532.2(5), RSMo.

26. Dillabough's conduct violates standards for the development and communication of real estate appraisals as provided in or pursuant to §§ 339.500 to 339.549, RSMo, providing cause to discipline his state certified real estate appraiser certificate pursuant to § 339.532.2(6), RSMo.

27. Dillabough's conduct demonstrates a failure and refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, and communicating an appraisal, providing cause to discipline his state certified real estate appraiser certificate pursuant to § 339.532.2(8), RSMo.

28. Dillabough's conduct, as set forth above, demonstrates negligence and incompetence in developing an appraisal, in preparing an appraisal report, and in communicating an appraisal, providing cause to discipline his state certified real estate appraiser certificate pursuant to § 339.532.2(9), RSMo.

29. Each of Dillabough's USPAP violations constitutes a violation of § 339.535, RSMo, providing cause to discipline his state certified real estate appraiser certificate pursuant to § 339.532.2(7) and (10), RSMo.

30. Dillabough's conduct violates the professional trust and confidence he owed to his clients, the intended users of the appraisal report, and the public, providing cause to discipline his state certified real estate appraiser certificate pursuant to § 339.532.2(14), RSMo.

31. Dillabough's conduct demonstrates that Dillabough rendered appraisal services in violation of the USPAP Ethics Rule, USPAP Standards 1 and 2, the USPAP Standards

Rules cited in this Count, and § 339.535, RSMo, providing cause to discipline Dillabough's certificate as a state-certified real estate appraiser pursuant to §§ 339.532.2(5), (6), (7), (8), (9), (10) and (14), RSMo.

32. Dillabough failed to retain the required documentation in violation of the USPAP Ethics Rule, § 339.537, RSMo, and 20 CSR 2245-2.050, providing cause to discipline Dillabough's state certified real estate appraiser certificate pursuant to §§ 339.532.2(5) and (7), RSMo.

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.

33. **Dillabough's certificate is on probation.** Dillabough's certification as a state certified real estate appraiser is hereby placed on PROBATION for a period of SIX MONTHS. The period of probation shall constitute the "disciplinary period." During the disciplinary period, Dillabough shall be entitled to practice as a state certified real estate appraiser under §§ 339.500 through 339.549, RSMo, as amended, provided Dillabough adheres to all the terms of this agreement.

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

A. Dillabough shall submit written reports to the MREAC three months after the disciplinary period goes into effect and thirty days prior to its ending, stating

truthfully whether there has been compliance with all terms and conditions of this Settlement Agreement. Dillabough is responsible for assuring that the reports are submitted to and received by the MREAC.

B. During the disciplinary period, Dillabough shall maintain a log of all appraisal assignments as required by 20 CSR 2245-2.050. A true and accurate copy of which shall be submitted to the MREAC three months after the disciplinary period goes into effect and thirty days prior to its ending, with the written reports required under subparagraph A., above. Dillabough is responsible for assuring that the logs are submitted to and received by the MREAC. Upon MREAC request, Dillabough shall submit copies of his work samples for MREAC review.

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

E. Dillabough 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, Dillabough 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 Dillabough's certification as a state certified 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. Dillabough 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. Dillabough 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, Dillabough removes himself from the state of Missouri, ceases to be currently licensed 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, unlicensed status or unknown whereabouts shall not be deemed or taken as any part of the disciplinary period.

35. Upon the expiration of the disciplinary period, the certification of Dillabough shall be fully restored if all requirements of law have been satisfied; provided, however, that

in the event the MREAC determines that Dillabough 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 Dillabough's certification.

36. 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.

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

38. 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.

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

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

41. 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.

42. 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.

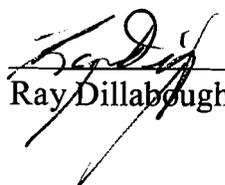
43. Dillabough, together with his partners, heirs, assigns, agents, employees, representatives and attorneys, does hereby waive, release, acquit and forever discharge the MREAC, its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from 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.

44. Dillabough 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 Dillabough's certificate. If Dillabough desires the Administrative Hearing Commission to review this Settlement Agreement, Dillabough 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.

16. If Dillabough 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 Dillabough's license. If Dillabough 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.

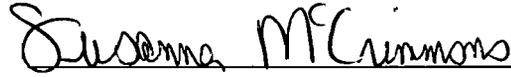
LICENSEE


Ray Dillabough
Date: 12-3-2009

Missouri Real Estate Appraisers
Commission


Vanessa Beauchamp, Executive Director
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