

SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE APPRAISERS COMMISSION
AND
ROBERT J. HOELTER

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Robert J. Hoelter (Hoelter) and the Missouri Real Estate Appraisers Commission (MREAC) enter into this Settlement Agreement for the purpose of resolving the question of whether Hoelter's license as a state-licensed real estate appraiser, no. 2002030436, 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 Hoelter 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.

Hoelter 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

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

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 Hoelter 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, Hoelter 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.

Hoelter 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. Hoelter stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREAC that Hoelter's license as a real estate appraiser, license no. 2002030436, 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 Hoelter in Part II herein is based only on the agreement set out in Part I herein. Hoelter 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 Hoelter herein jointly stipulate to the following:

1. The MREAC was established pursuant to § 339.507, RSMo, for the purpose of executing and enforcing the provisions of §§ 339.500 through 339.549, RSMo, as amended, the Missouri Certified and Licensed Real Estate Appraisers Act.
2. Hoelter holds a current and active license from the MREAC as a state-licensed real estate appraiser, license no. 2002030436.
3. On or around October 23, 2008, the MREAC received a complaint regarding an appraisal that Hoelter prepared for the property located at 3504 Saint Luke Lane, St. Ann, MO 63074 (appraisal).
4. On or around, August 12, 2008, the MREAC mailed Hoelter a letter by certified mail, informing him of the complaint and requesting all pertinent documents regarding the appraisal by no later than September 12, 2008.
5. Hoelter failed to respond to the MREAC's request.
6. On or around October 3, 2008, MREAC contacted Hoelter confirming the letter was sent to his correct address, 7441 Tulane Ave., St. Louis, MO 63130.
7. On or around October 23, 2008, MREAC mailed Hoelter a follow-up letter requesting all the pertinent documents regarding the appraisal be submitted to the MREAC by November 23, 2008.

8. Hoelter again failed to respond to the MREAC's request.
9. On or around February 6, 2009, MREAC mailed by certified mail, a request for Hoelter to appear at their May 6, 2009 meeting.
10. On or around, March 1, 2009, the MREAC sent an email to Hoelter requesting Hoelter contact the MREAC regarding his mailing address.
11. On or around March 26, 2009, Hoelter responded by confirming his address, and that he received the correspondence from MREAC.
12. Hoelter failed to appear on May 6, 2009, and failed to respond to the MREAC's request regarding the appraisal.
13. On or around May 11, 2009, the MREAC mailed via certified mail, correspondence explaining the complaint had been reviewed, and requesting that Hoelter appear at the August 4, 2009, meeting with the documents regarding the appraisal.
14. Hoelter failed to respond and appear at the MREAC's, August 4, 2009, meeting.
15. By failing to respond and failing to provide the pertinent documents regarding the appraisal to the MREAC, after reasonable notice, Hoelter violated § 339.537, which states:

“State-certified real estate appraisers and state-licensed real estate appraisers shall retain originals or true copies of contracts engaging an appraiser's 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.* When litigation is contemplated at any time, reports and records shall be retained for two years after the final disposition.”

16. Hoelter by failing to make his records available to the MREAC when multiple requests were made was incompetent, misconduct, and grossly negligent in the performance of his functions or duties as a state-licensed real estate appraiser.

17. Cause exists for the MREAC to take disciplinary action against Hoelter’s license pursuant to § 339.532.2 (5) and (10), RSMo, which states in pertinent 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;

(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[.]”

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.

1. **Hoelter's license is revoked and all indicia of licensure shall be surrendered immediately.** Hoelter's license as a real estate appraiser is hereby REVOKED and ALL INDICIA OF CERTIFICATION SHALL BE SURRENDERED IMMEDIATELY upon this Settlement Agreement becoming effective.

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

3. 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.

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 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.

6. 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.

7. Hoelter, 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.

8. Hoelter 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 Hoelter's license. If Hoelter desires the Administrative Hearing Commission to review this Settlement Agreement, Hoelter 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.

9. If Hoelter 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 Hoelter's license. If Hoelter 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

Robert J. Hoelter 12/12/2009
Robert Hoelter Date

MREAC

Vanessa Beauchamp
Vanessa Beauchamp, Executive Director
Date: 12-22-09

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