SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE APPRAISERS COMMISSION
AND
SUSAN M. PECK, FORMERLY KNOWN AS SUSAN M. SHORTT

Susan M. Peck, formerly known as Susan M. Shortt, (Peck) and the Missouri Real Estate Appraisers Commission (MREAC) enter into this Settlement Agreement for the sole purpose of resolving the question of whether Peck's certification as a state-certified general real estate appraiser, no. RA001900, will be subject to discipline.[1] Pursuant to § 536.060, RSMo 2000,[2] 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 Supp. 2012. The MREAC and Peck jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo Supp. 2012.

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[1] Peck relies upon legal precedent from the Appellate Courts of the State of Missouri, specifically, *State ex rel. Malan v. Huesemann*, 942 S.W.2d 424 (Mo. App. W.D. 1997) for judicial precedent that the fact of her entering into this Settlement Agreement is inadmissible in any civil action relating to the facts and circumstances as set forth in the Complaint and/or Amended Complaint of the MREAC.

[2] All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted.

Peck acknowledges that she understands the various rights and privileges afforded her by law, including the right to a hearing of the charges against her; 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 her at the hearing; the right to present evidence on her 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 her; 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 Peck 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 her by law, Peck 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 her.

Peck acknowledges that she 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. Solely for the purposes of settlement, Peck stipulates to the factual allegations contained in this Settlement Agreement and stipulates with the MREAC that Peck's certification as a state-certified general real estate appraiser, certificate no. RA001900, is subject to disciplinary action by the MREAC in accordance with the relevant provisions of Chapter 621, RSMo, and §§ 339.500 through 339.549, RSMo, as amended.

The parties stipulate and agree that the disciplinary order agreed to by the MREAC and Peck in Part II herein is based only on the agreement set out in Part I herein. Peck understands that the MREAC may take further disciplinary action against her based on facts or conduct not specifically mentioned in this document that are either now known to the MREAC or may be discovered, except for the issues pertaining to an appraisal prepared by Rusty Chadwell of 1411 East Monroe Street, Springfield, Missouri, as of February 26, 2006.

I.
Joint Stipulation of Facts and Conclusions of Law

Based upon the foregoing, solely for the purposes of settlement, the MREAC and Peck herein jointly stipulate to the following:

1. At all times relevant to this complaint, Peck was President of Centere, Inc. d/b/a Appraisal Centere of the Ozarks. During 2010, Chris Himes was an independent contractor of Appraisal Centere of the Ozarks

working as a trainee real estate appraiser and Peck was responsible for supervising his real estate appraising activities.

3. On or about January 28, 2010, Peck supervised Himes in the preparation of a restricted use appraisal report for commercial real estate located at 721 Commercial Street, Mansfield, Missouri ("the Commercial Street property"). Peck signed the appraisal report. The effective date of the appraisal report was January 27, 2010. This appraisal valued the property at $131,900. This appraisal shall be referred to hereinafter as the "Commercial Street Appraisal Report."

4. On or about February 18, 2010, Peck supervised Himes in the preparation of a restricted use appraisal report for a 12 duplex lot subdivision located on Welch Street, Marshfield, Missouri ("the 12 Duplex Lot Subdivision property"). Peck signed the appraisal report. The effective date of the appraisal report was February 17, 2010. This appraisal valued the property at $166,000. This appraisal shall be referred to hereinafter as the "12 Duplex Lot Subdivision Appraisal Report."

5. Section 339.535, RSMo, which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practice (USPAP), 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.

Commercial Street Appraisal Report

6. Peck was required to develop and report the results of the Commercial Street Appraisal Report in compliance with the USPAP, 2010-2011 edition.

7. Based on the following errors and omissions in the preparation of the Commercial Street Appraisal Report, Peck is in violation of Section 339.535, RSMo, USPAP Standards 1 and 2, and USPAP Standards Rules 1-1(a), 1-4(a), (b) and (c), 1-6(a) and (b), 2-1(a) and (b), and 2-2(c)(vii) and (viii), 2010-2011 edition:

a. Failed to note in the report or the workfile any analysis regarding the competitive effect of another mini-storage facility situated approximately one block from the subject property toward the center of town;

b. Failed to note in the report or the workfile an opinion of exposure time;

c. Failed to include an adequate reconciliation of the three approaches to value used and the significantly different values which varied from $87,600 to $131,900;

d. Failed to cite the contribution of each appraiser signing the report;

e. In the Sales Comparison Approach:

   i. Failed to provide detailed information in the report or the workfile regarding the comparable sales, including the number of units and the gross income for each;

   ii. Failed to note in the report or the workfile the analysis and conclusions regarding the differences in market conditions, if any, between the appraisal date and the dates of the comparable sales in 2007 and 2008;

   iii. Failed to note in the report or the workfile that transactional adjustments, such as financing terms, conditions of sale, or market conditions, had been considered or made;

   iv. Failed to identify or analyze a listing of the subject property that was included in the workfile;

f. In the Cost Approach:

   i. Used the same cost per square foot ($17.98) for all three buildings when one building was significantly larger and

the cost service used (Marshall Valuation Service) called for adjustment of the cost per square foot based on size; and

ii. Failed to appropriately adjust the base cost for storage units with all of the required multipliers for perimeter, wall height, cost section update and locale, using instead only two of the multipliers;

g. In the Income Approach, failed to provide any support or calculations in either the report or the workfile for the nine percent capitalization rate.

12 Duplex Lot Subdivision Appraisal Report

8. Peck was required to develop and report the results of the 12 Duplex Lot Subdivision Appraisal Report in compliance with the USPAP, 2010-2011 edition.

9. Based on the following errors and omissions in the preparation of the 12 Duplex Lot Subdivision Appraisal Report which was based only on the Income Approach, Peck is in violation of Section 339.535, RSMo, USPAP Standards 1 and 2, and USPAP Standards Rules 1-1(a), 1-4(a) and (c), 2-1(a) and (b), and 2-2(c)(v), (vii) and (viii), 2010-2011 edition:

a. Used an overall capitalization rate as a discount rate;

b. Did not analyze potential holding costs;

c. Did not develop an opinion of exposure time;

d. By using the list prices of the lots adjusted by 9.5 percent for the typical sale-to-list price ratio, instead of analyzing comparable sales as required by USPAP SR 1-4(a), Peck did not use a proper method for determining the market values of individual lots;

e. Upon discovering only seven multiple family lots sales over the last two years in the local MLS, Peck failed to research comparable sales from other sources such as appraisers, realtors, etc.;

f. Failed to explain why she concluded an estimated sales price of $25,000 per lot when the sales comparison analysis included in the workfile concluded a $24,000 lot value based on three single family lots adjusted for the value difference between single family and multi-family lots;

g. Failed to explain why an unlicensed trainee was allowed to conduct the inspection for this complex subdivision appraisal report alone.

10. Based on the facts and violations set forth above, cause exists to discipline Peck's certification as a state-certified general real estate appraiser pursuant to § 339.532.2(6), (7), (10), and (14), RSMo Supp. 2012, which states:

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any state-certified real estate appraiser, state-licensed real estate appraiser, state-licensed appraiser trainee, state-certified residential appraiser trainee, state-certified general appraiser trainee, state-licensed appraisal management company that is a legal entity other than a natural person, any person who is a controlling person as defined in this chapter, 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:

. . . . .

(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;

. . . . .

(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 §§ 621.045.4 and 621.110, RSMo Supp. 2012.

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

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

A. Peck shall submit written reports to the MREAC by no later than August 1 and February 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 August 1, 2013.

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. Peck is responsible for assuring that the reports are submitted to and received by the MREAC.

B. During the disciplinary period, Peck 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 August 1 and February 1 during each year of the disciplinary period. The first log shall be submitted on or before August 1, 2013. 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. Peck is responsible for assuring that the logs are submitted to and received by the MREAC. Upon MREAC request, Peck shall submit copies of her work samples for MREAC review.

C. Within one year after the effective date of this Settlement Agreement, Peck shall submit verification to the MREAC of successful completion of an approved course on supervising appraiser trainees of 3.5 hours or more.

D. Peck may not apply the education required by this Settlement Agreement to satisfy the continuing education hours required for certification renewal.

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

F. During the disciplinary period, Peck 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, Peck shall advise each trainee real estate appraiser working under her 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.

G. Whenever during the disciplinary period Peck provides others with a copy of her certification as a Missouri state-certified general real estate appraiser, Peck shall provide the most recent version of her certification issued by the MREAC.

H. During the disciplinary period, Peck shall keep the MREAC apprised at all times in writing of her current work and home addresses and telephone numbers at each place of residence and employment.

Peck shall notify the MREAC in writing of any change in address or telephone number within 15 days of a change in this information.

I. Peck shall timely renew her certification and timely pay all fees required for certification renewal and comply with all other MREAC requirements necessary to maintain her certification in a current and active state.

J. During the disciplinary period, Peck 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 Peck'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. Peck 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. Peck 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, Peck removes herself 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.

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

4. 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.

5. This Settlement Agreement does not bind the MREAC or restrict the remedies available to it concerning any future violations by Peck of §§

339.500 through 339.549, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

6. 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, except for the issues pertaining to an appraisal prepared by Rusty Chadwell of 1411 East Monroe Street, Springfield, Missouri, as of February 26, 2006.

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

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

9. 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.

10. 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 324, 339, and 610, RSMo, as amended.

11. Peck, together with her 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.

12. This Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREAC.

13. Within 15 days after the effective date of this Settlement Agreement, the MREAC shall file a motion to dismiss with prejudice the case captioned *Missouri Real Estate Appraisers Commission v. Susan M. Peck, f/n/a Susan M. Shortt*, pending before the Administrative Hearing Commission, case number 12-2267 RA, which also includes case number 10-0834 RA that was consolidated into it.

LICENSEE

3/1/13

Susan M. Peck Date

MISSOURI REAL ESTATE APPRAISERS COMMISSION

Vanessa Beauchamp

Vanessa Beauchamp, Executive Director

Date: 3-8-13

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