

FINDINGS OF FACT

Based upon the foregoing the MREC hereby states

- 1 The MREC is an agency of the State of Missouri created and existing pursuant to § 339 120 RSMo for the purpose of executing and enforcing the provisions of § 339 010 to 339 205 and § 339 710 to 339 860 RSMo and the regulations promulgated thereunder relating to real estate salespersons and brokers
- 2 Andres is a natural person residing at the address of #50 West Park O Fallon Missouri 63366
- 3 On or about July 31 2013 the MREC received Andres s application for a real estate salesperson license (Application)
- 4 On her Application question 4 10 Andres was asked if she had ever been licensed as a real estate salesperson or broker in Missouri? She was to provide the approximate dates of licensure and type of license if she answered Yes to this question Andres responded YES to question 4 10 but failed to provide approximate dates of licensure or license type held
- 5 MREC records reflect that Andres initially obtained a real estate salesperson license on July 19 2001 and affiliated the license with Gordon A Gundaker Real Estate Company Inc The license number was 2001019829
- 6 Andres continually maintained an active license until it expired on September 30 2008 when she failed to renew it Andres transferred affiliation of her license to various brokers between July 19 2001 and September 30 2008 and it was affiliated with

D Andres Real Estate LLC hereafter D Andres when it expired on September 30 2008

7 The real estate association license of D Andres license number 2007023280 expired on June 30 2008 as it was not renewed by its designated broker James Steiniger

8 On or about April 3 2009 Andres contacted the MREC office regarding the status of her license and informed MREC staff that she conducted real estate activity through D Andres between June 30 2008 and April 3 2009

9 Andres was unable to conduct any activity that required a real estate license through D Andres subsequent to June 30 2008 and therefore the MREC initiated an investigation into the activity conducted by Andres and D Andres subsequent to June 30 2008

10 James Steiniger renewed the license of D Andres on May 26 2009 but failed to renew the license on June 30 2010 at which time the license again expired

11 Andres renewed her salesperson license on October 14 2009 reestablishing its affiliation with D Andres but transferred her license to NRT Missouri Inc on November 9 2009 Andres license again expired on September 30 2010

12 Subsequent to Andres call to the MREC office an investigation was initiated of the real estate activity she admitted to conducting in her April 3 2009 telephone conversation with MREC staff

13 As a result of its investigation in or about October 2009 the MREC initiated action to pursue the imposition of formal disciplinary action against Andres license for

conducting activity through D Andres when it and/or she did not have a valid and current real estate license

14 The MREC s pursuit to impose discipline Andres was withdrawn subsequent to the expiration of her license on September 30 2010

II

CONCLUSION OF LAW

15 As a result of the conduct identified in Section I herein cause exists for the MREC to deny Andres application for a real estate salesperson license pursuant to § 339 080 1 RSMo which provides The commission may refuse to examine or issue a license to any person known by it to be guilty of any of the acts or practices specified in subsection 2 of section 339 100

16 As a result of the conduct identified in Section I herein cause exists for the MREC to deny Andres application for a real estate salesperson license pursuant to the provisions of § 339 100 2(15) (16) and (19) RSMo which state

(2) The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621 RSMo against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts

(15) Violation of or attempting to violate directly or indirectly or assisting or enabling any person to violate any provision of sections 339 010 to 339 180 and sections 339 710 to 339 860 or any lawful rule adopted pursuant to sections 339 010 to 339 480 and sections 339 710 to 339 760

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339 040

(19) Any other conduct which constitutes untrustworthy improper or fraudulent business dealings demonstrates bad faith or incompetence misconduct or gross negligence

17 Section 339 040 1 RSMo provides that licenses shall be issued only to persons of good moral character who bear a good reputation for honesty integrity and fair dealing and who are competent to transact the business of a real estate salesperson in a manner so as to safeguard the public s interest

18 As a result of the conduct identified in Section I herein Andres has engaged in activity that adversely affects her moral character her reputation and her fitness and qualifications to practice as a real estate salesperson

19 As an alternative to refusing to issue a license the MREC may at its discretion issue a license subject to probation pursuant to § 324 038 1 RSMo which provides

Whenever a board within or assigned to the division of professional registration including the division itself when so empowered may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of license the board as an alternative to refusing to issue a license may at its discretion issue to an applicant a license subject to probation

20 The MREC issues this Order in lieu of denial of Andres application for a real estate salesperson license The MREC has determined that this Order is necessary to ensure the protection of the public

III

TERMS AND CONDITIONS

21 Based on the foregoing the Missouri real estate salesperson license issued to Andres is subject to the following terms and conditions

22 **Andres s license is on probation for two years** Andres s real estate salesperson license is hereby placed on PROBATION for a period of TWO YEARS from the effective date of this Order During the period of probation on her real estate salesperson license Andres shall be entitled to practice as a real estate salesperson provided she adheres to all the terms stated herein The period of probation shall constitute the disciplinary period

23 **Terms and conditions of the disciplinary period** Terms and conditions of the disciplinary period are as follows

A Andres shall keep the MREC apprised at all times in writing of her current address and telephone number at each place of residence and business Andres shall notify the MREC in writing within ten days of any change in this information

B Andres shall timely renew her Missouri real estate salesperson license timely pay all fees required for license renewal and comply with all other requirements necessary to maintain her license in a current and active state

C Andres shall meet in person with the MREC or its representative at any such time and place as required by the MREC or its designee upon notification from the MREC or its designee Said meetings will be at the MREC s discretion and may occur periodically during the probation period

D Andres shall immediately submit documents showing compliance with the requirements of this Order to the MREC when requested by the MREC or its designee

E During the probationary period Andres shall accept and comply with unannounced visits from the MREC s representatives to monitor compliance with the terms and conditions of this Order

F If at any time within the disciplinary period Andres changes residence from the State of Missouri ceases to be currently licensed in Missouri under the relevant provisions of Chapter 339 RSMo as amended fails to timely pay all fees required for license renewal or fails to keep the MREC advised of all current places of residence and business the time of absence unlicensed status delinquency in paying fees for license renewal or unknown whereabouts shall not be deemed or taken as any part of the disciplinary period

G Andres shall comply with all relevant provisions of Chapter 339 RSMo as amended all rules and regulations of the MREC and all local state and federal laws State as used herein refers to the State of Missouri and all other states and territories of the United States

24 Upon the expiration and successful completion of the disciplinary period Andres s real estate salesperson license shall be fully restored if all other requirements of the law have been satisfied provided however that in the event the MREC determines that Andres has violated any term or condition of this Order the MREC may in its discretion after an evidentiary hearing vacate and set aside the discipline imposed

herein and may suspend revoke or otherwise lawfully discipline Andres s real estate salesperson license

25 No order shall be entered by the MREC pursuant to the preceding paragraph of this Order without notice and an opportunity for hearing before the MREC in accordance with the provisions of Chapter 536 RSMo

26 If the MREC determines that Andres has violated a term or condition of this Order which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court the MREC may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Order in its determination of appropriate legal actions concerning such violation

27 If any alleged violation of this Order occurs during the disciplinary period the MREC 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 The MREC has continuing jurisdiction to hold a hearing to determine if a violation of this Order has occurred

28 The MREC will maintain this Order as an open and public record of the MREC as provided in Chapters 339 610 and 324 RSMo

SO ORDERED AND EFFECTIVE THIS 15TH DAY OF AUGUST 2013



Janet Carder Executive Director
Missouri Real Estate Commission