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MREC

SETTLEMENT AGREEMENT BETWEEN
THE MISSOURI REAL ESTATE COMMISSION
AND
PETER GEROLYMATOS

The Missouri Real Estate Commission (“MREC”) and Peter Gerolymatos (“Gerolymatos”) enter into this Settlement Agreement (“Settlement Agreement”) for the purpose of resolving the question of whether Gerolymatos will be subject to the imposition of a civil penalty.

Pursuant to § 536.060, RSMo,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 MREC under § 621.110, RSMo Supp. 2011. The MREC and Gerolymatos jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 339.205.6, RSMo Supp. 2011.

Gerolymatos 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 their behalf at the hearing; the right to a

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

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 MREC at which time Gerolymatos may present evidence in mitigation of discipline; the right to seek recovery of attorney fees and expenses incurred in litigating the MREC's action against him; and the right to obtain judicial review of the decisions of the Administrative Hearing Commission and the MREC.

Being aware of these rights provided to him by law, Gerolymatos 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.

Gerolymatos acknowledges that he has received a copy of documents that were the basis upon which the MREC determined there was cause for discipline, along with citations to law and/or regulations the MREC believes were violated. Gerolymatos stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREC that Gerolymatos is subject to the imposition of a civil penalty under § 339.205, RSMo Supp. 2011, as amended.

The parties stipulate and agree that the disciplinary order agreed to by the MREC and Gerolymatos in Part II herein is based only on the agreement set out in Part I herein. Gerolymatos understands that the MREC may take further disciplinary action against it based on facts or conduct not specifically mentioned in this document that are either now known to the MREC or may be discovered.

I.
Joint Stipulation of Facts and Conclusions of Law

Based upon the foregoing, the MREC and Gerolymatos herein jointly stipulate to the following:

1. Octopus LLC is a Missouri limited liability company, charter no. LC0992180. At all relevant times herein, Octopus LLC was licensed with the MREC as a real estate association, license no. 2009029876. Octopus LLC does business under the fictitious names of Real Property Management Kansas City which is registered with the MREC and the Missouri Secretary of State.

2. From October 25, 2011 through December 6, 2011, the MREC conducted an audit and examination of Octopus LLC's business records and escrow accounts (Audit) for the period of October 2010 to October 2011 (Audit Period). The findings of fact and conclusions of law set forth hereinafter represent the findings of the Audit.

3. Gerolymatos, an individual, is the owner of Octopus LLC, and is not and has never been licensed as a real estate broker or salesperson.

During the Audit Period, Gerolymatos supervised and conducted the real estate management business of Octopus LLC and received commissions and/or other consideration for his real estate management services provided through Octopus LLC.

4. During the audit period, Gerolymatos, by and through Octopus LLC, managed 144 properties for 71 owners.

5. From January 22, 2011 to June 22, 2011, Gerolymatos, by and through Octopus LLC, conducted real estate activity without a designated broker. During this time, there were nine management agreements and one lease agreement negotiated which were not signed by a broker or any other licensed representative of Octopus LLC, instead being signed by Gerolymatos.

6. When Octopus LLC did have a designated broker, Gerolymatos continued to supervise and conduct the real estate management services of the company, in that the designated broker would come to the office only every couple of weeks, Gerolymatos retained sole control over the escrow accounts, and Gerolymatos did not familiarize the hired designated broker with the property management software, procedures and/or activities of Octopus LLC.

7. For ten properties, Octopus LLC failed to obtain and/or maintain current management agreements, in violation of § 339.780.2, RSMo Supp. 2011 and 20 CSR 2250-8.200(1).

8. Section 339.780.2, states as follows:

Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to establish a limited agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 339.730 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker.

9. Rule 20 CSR 2250-8.200(1), states as follows:

(1) When managing property a licensee shall not rent or lease, offer to rent or lease, negotiate, or offer or agree to negotiate, the rent or lease, list or offer to list for lease or rent, assist or direct in procuring of prospects calculated to result in the lease or rent, assist or direct in the negotiation of any trans-action calculated or intended to result in the lease or rent, or show that property to prospective renters or lessees unless the licensee's broker holds a current written property management agreement or other written authorization signed by the owner of the real estate or the owner's authorized agent.

(2) A licensee who is managing the leasing or rental of real estate shall not act as an agent in the sale or exchange of that real estate unless the licensee complies with the requirements of 20 CSR 2250-8.090.

10. According to the October 2011 owner's statements maintained by Octopus LLC, Octopus LLC should be holding rents and security deposits on

behalf of its clients in an amount of \$63,429.14, but the reconciled bank statements for such period show a balance of \$13,462.56 leaving a shortage of \$49,966.56, in violation of § 339.105.1, which states:

Each broker who holds funds belonging to another shall maintain such funds in a separate bank account in a financial institution which shall be designated an escrow or trust account. This requirement includes funds in which he or she may have some future interest or claim. Such funds shall be deposited promptly unless all parties having an interest in the funds have agreed otherwise in writing. No broker shall commingle his or her personal funds or other funds in this account with the exception that a broker may deposit and keep a sum not to exceed one thousand dollars in the account from his or her personal funds, which sum shall be specifically identified and deposited to cover service charges related to the account.

1. Section 339.010.1, RSMo, defines a real estate broker as follows:

A "real estate broker" is any person, partnership, association, or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, does, or attempts to do, any or all of the following:

- (1) Sells, exchanges, purchases, rents, or leases real estate;
- (2) Offers to sell, exchange, purchase, rent or lease real estate;
- (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;
- (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;

.....

(7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;

(8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;

.....

(10) Performs any of the foregoing acts on behalf of the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

11. Gerolymatos's conduct, as stipulated to herein, violates § 339.020,

RSMo Supp. 2011, which states:

It shall be unlawful for any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, foreign or domestic, to act as a real estate broker, real estate broker-salesperson, or real estate salesperson, or to advertise or assume to act as such without a license first procured from the commission.

12. Gerolymatos's conduct, as stipulated to herein, violates

§ 339.180.1, RSMo Supp. 2011, which states in part:

It shall be unlawful for any person or entity not licensed under this chapter to perform any act for which a real estate license is required. . . .

13. Gerolymatos's conduct, as stipulated to herein, violates

§ 339.200.1, RSMo Supp. 2011, which states:

It shall be unlawful for any person not holding the required license from the commission to perform any

act for which a license is required by sections 339.010 to 339.189 and sections 339.710 to 339.860. The commission may cause a complaint to be filed with the administrative hearing commission, as provided in chapter 621, RSMo, against any unlicensed person who:

(1) Engages in or offers to perform any act for which a license is required by sections 339.010 to 339.180 and sections 339.710 to 339.860; or

(2) Uses or employs titles defined and protected by this chapter, or implies authorization to provide or offer professional services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person holds any license required by sections 339.010 to 339.180 and sections 339.710 to 339.860.

14. Section 339.205.1, RSMo, provides that in actions against unlicensed persons or disciplinary actions against licensed persons, the commission may issue an order imposing a civil penalty.

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 MREC in this matter under the authority of § 536.060, RSMo, and §§ 339.205 and 621.110, RSMo Supp. 2011.

1. Gerolymatos agrees to pay a civil penalty of \$1,500. Said penalty is authorized under § 339.205, RSMo Supp. 2011.

2. Gerolymatos agrees to pay the \$1,500 civil penalty by certified check or lawyer trust account check made payable to the “Missouri Real Estate Commission, State of Missouri” and mailed to Missouri Real Estate Commission, P.O. Box 1339, Jefferson City, MO 65102-1339. Gerolymatos or his counsel shall postmark and mail or hand deliver said check within 60 days of the date when this Settlement Agreement becomes effective.

3. Funds received pursuant to this agreement shall be handled in accordance with Section 7 of Article IX of the Missouri Constitution. Section 339.205.8, RSMo. Supp. 2011.

4. In the event the MREC determines that Gerolymatos has failed to pay any portion of the \$1,500 agreed upon herein or has violated any other term or condition of this Settlement Agreement, the MREC may notify the Attorney General who “may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs and a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed” under § 339.205.4, RSMo Supp. 2011.

5. No additional discipline shall be imposed against Gerolymatos by the MREC pursuant to this Settlement Agreement without notice and opportunity for hearing before the MREC as a contested case in accordance with the provisions of Chapter 536, RSMo.

6. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future violations by Gerolymatos of Chapter 339, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

7. This Settlement Agreement does not bind the MREC 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 MREC or may be discovered.

8. If any alleged violation of this Settlement Agreement occurs, the parties agree that the MREC may choose to conduct a hearing before it at the earliest possible opportunity to determine whether a violation occurred and, if so, may impose further disciplinary action. Gerolymatos agrees and stipulates that the MREC has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

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

10. 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

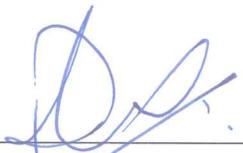
signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

11. The parties to this Settlement Agreement understand that the MREC will maintain this Settlement Agreement as an open record of the MREC as required by Chapters 339, 610, and 324, RSMo, as amended.

12. Gerolymatos together with his partners, heirs, assigns, agents, employees, representatives and attorneys, do hereby waive, release, acquit, and forever discharge the MREC, 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.

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

RESPONDENT



Peter Gerolymatos
Date: 02/25/2013

MISSOURI REAL ESTATE
COMMISSION



Janet Carder, Executive Director
Date: 3-21-13

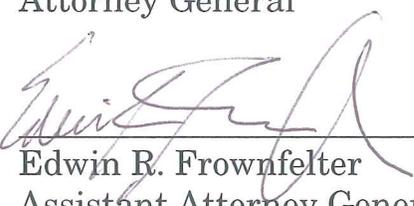
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