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**SETTLEMENT AGREEMENT**  
**BETWEEN**  
**MISSOURI REAL ESTATE COMMISSION**  
**AND**  
**LINDA S HYINK**

NOV 19 2012

MREC

Linda S Hyink (Hyink) and the Missouri Real Estate Commission (MREC) enter into this Settlement Agreement for the purpose of resolving the question of whether Hyink's license as a real estate salesperson, no 2008031460 will be subject to discipline Pursuant to § 536.060 RSMo 2000<sup>1</sup> 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 Hyink jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045 RSMo Supp 2011

Hyink 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

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<sup>1</sup> All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted

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 MREC at which time Hyink 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 MREC

Being aware of these rights provided her by law Hyink 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

Hyink acknowledges that she 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 Hyink stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREC that Hyink's license as a real estate salesperson license no 2008031460 is subject to disciplinary action by the MREC in accordance with the relevant provisions of

Chapter 621, RSMo and §§ 339 010 through 339 205 and §§ 339 710 through 339 855 RSMo, as amended

The parties stipulate and agree that the disciplinary order agreed to by the MREC and Hyink in Part II herein is based only on the agreement set out in Part I herein. Hyink understands that the MREC 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 MREC or may be discovered.

**I**  
**Joint Stipulation of Facts and Conclusions of Law**

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

1. Hyink holds a Missouri real estate salesperson license No. 2008031460. Hyink's license has been current and active at all times.

2. On October 1, 2010, Hyink pled guilty to two counts of the class C felony of Forgery in violation of Section 570.090 RSMo Supp. 2011, and one count of the class D felony of Fraudulently Attempting to Obtain a Controlled Substance in violation of § 195.204 RSMo 2011, as provided in case nos. 10SL-CR00478-01, 10SL-CR05552-01, and 10SL-CR01299-01 in the Circuit Court of St. Louis County, Missouri.

3 Section 570 090 RSMo Supp 2011 setting forth the elements of

Forgery, states

A person commits the crime of forgery if, with the purpose to defraud, the person

(1) Makes, completes alters or authenticates any writing so that it purports to have been made by another or at another time or place or in a numbered sequence other than was in fact the case or with different terms or by authority of one who did not give such authority or

(2) Erases, obliterates or destroys any writing or

(3) Makes or alters anything other than a writing including receipts and universal product codes so that it purports to have a genuineness, antiquity, rarity ownership or authorship which it does not possess or

(4) Uses as genuine, or possesses for the purpose of using as genuine or transfers with the knowledge or belief that it will be used as genuine, any writing or other thing including receipts and universal product codes, which the actor knows has been made or altered in the manner described in this section

2 Forgery is a class C felony

4 Section 195 204, RSMo 2011, setting forth the elements of

Fraudulently Attempting to Obtain a Controlled Substance, states

1 A person commits the offense of fraudulently attempting to obtain a controlled substance if he obtains or attempts to obtain a controlled substance or procures or attempts to procure the administration of

the controlled substance by fraud, deceit, misrepresentation or subterfuge or by the forgery or alteration of a prescription or of any written order, or by the concealment of a material fact or by the use of a false name or the giving of a false address. The crime of fraudulently attempting to obtain a controlled substance shall include but shall not be limited to nor be limited by, the following

(1) Knowingly making a false statement in any prescription order, report or record required by sections 195.005 to 195.425,

(2) For the purpose of obtaining a controlled substance, falsely assuming the title of or representing oneself to be a manufacturer, wholesaler, pharmacist, physician, dentist, podiatrist, veterinarian, or other authorized person

(3) Making or uttering any false or forged prescription or false or forged written order

(4) Affixing any false or forged label to a package or receptacle containing controlled substances

(5) Possess a false or forged prescription with intent to obtain a controlled substance

2. Fraudulently attempting to obtain a controlled substance is a class D felony[ ]

5. The charges in Count 01 of Case No. 10SL-CR00478-01 to which Hyink pled guilty were as follows, in pertinent part

#### INFORMATION

The Prosecuting Attorney of the County of St. Louis, State of Missouri, charges

Count 01 Forgery – Class C Felony

That Linda S Hyink, in violation of Section 570 090, RSMo, committed the class C felony of forgery in that on or about October 30th 2009 at 196 THF Boulevard, in the County of St Louis, State of Missouri the defendant, with the purpose to defraud, used as genuine a writing, namely a prescription order slip, knowing that it had been made so that it purported to have been made by another

6 The charges in Count 01 of Case No 10SL-CR05552 01 to which Hyink pled guilty were as follows in pertinent part

INFORMATION

The Prosecuting Attorney of the County of St Louis State of Missouri, charges

Count 01 Forgery – Class C Felony

That Linda S Hyink, in violation of Section 570 090, RSMo committed the class C felony of forgery in that on or about November 23rd, 2009, at Medicine & More, 15870 Clayton Rd in the County of St Louis, State of Missouri, the defendant with the purpose to defraud used as genuine a prescription script for Fetanyl [sic], knowing that it had been made or altered so that it purported to have a [sic] authorship that it did not possess

7 The charges in Count 01 of Case No 10SL-CR01299 01 to which Hyink pled guilty were as follows in pertinent part

INDICTMENT

The Grand Jurors of the County of St Louis, State of Missouri, charge

**Count 01 Fraudulently Attempt To Obtain Cont  
Substance – Class D Felony**

**That Linda S Hyink, in violation of Section 195 204,  
RSMo committed the class D felony of fraudulently  
attempting to obtain Fentanyl a controlled  
substance, in that on or about January 25th,  
2010 at 16 Stonegate Plaza, in the County of St  
Louis, State of Missouri the defendant knowingly  
attempted to obtain Fentanyl, a controlled substance,  
and defendant did so by alteration of a prescription  
for such substance as follows by forging thereon the  
name of Dr Gage**

**8 For each of the three offenses described above the Court  
suspended the imposition of Hyink s sentence and placed Hyink on supervised  
probation for five years**

**9 The crimes of Forgery and Fraudulently Attempting to Obtain a  
Controlled Substance are offenses reasonably related to the qualifications,  
functions or duties of a real estate salesperson**

**10 The crimes of Forgery and Fraudulently Attempting to Obtain a  
Controlled Substance are offenses where an essential element is fraud or  
dishonesty**

**11 The crimes of Forgery and Fraudulently Attempting to Obtain a  
Controlled Substance are offenses involving moral turpitude**

**12 Section 339 100 2 RSMo Supp 2011, setting forth possible causes  
for disciplining a real estate license, states in part**

2 The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621 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

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

(18) Been finally adjudicated and found guilty or entered a plea of guilty or nolo contendere in a criminal prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications functions or duties of any profession licensed or regulated under this chapter for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude whether or not sentence is imposed

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

13 Section 339 040 1 RSMo and RSMo Supp 2011 relating to license requirements, provide

1 Licenses shall be granted only to persons who present, and corporations associations, partnerships, limited partnerships, limited liability companies, and professional corporations whose officers, managers associates, general partners or members who actively

participate in such entity's brokerage, broker salesperson or salesperson business present, satisfactory proof to the commission that they

- (1) Are persons of good moral character and
- (2) Bear a good reputation for honesty, integrity and fair dealing, and
- (3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public

14 Based on the conduct set forth herein and Hyink's guilty plea to two class C felonies of Forgery and one class D felony of Fraudulently Attempting to Obtain a Controlled Substance, Hyink has failed to demonstrate that she is a person of good moral character, that she bears a good reputation for honesty, integrity and fair dealing, and that she is competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public, which are grounds for the MREC to refuse to issue a license under § 339 040 1 RSMo, providing cause to discipline Hyink's license pursuant to § 339 100 2(16) RSMo Supp 2011

15 Based on Hyink's guilty pleas as set forth above, cause exists to discipline Hyink's license pursuant to § 339 100 2(18) RSMo Supp 2011

16 Based on Hyink's improper conduct constituting Forgery and Fraudulently Attempting to Obtain a Controlled Substance Hyink engaged in conduct that constitutes untrustworthy improper or fraudulent business

dealing and demonstrates bad faith and gross negligence, providing cause to discipline Hyink's license pursuant to § 339 100 2(19), RSMo Supp 2011

**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 §§ 621 045 3 and 621 110 RSMo Supp 2011

1     **Hyink's license is on probation** Hyink's license as a real estate salesperson is hereby placed on PROBATION for a period of 5 YEARS. The period of probation shall constitute the "disciplinary period." During the disciplinary period Hyink shall be entitled to practice as a real estate salesperson under Chapter 339, RSMo, as amended, provided Hyink 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     Hyink shall keep the MREC apprised at all times of her current address and telephone number at each place of residence and business. Hyink shall notify the MREC in writing within ten (10) days of any change in this information.

B Hyink shall timely renew her real estate license(s) timely pay all fees required for license renewal and shall comply with all other requirements necessary to maintain her license(s) in a current and active status During the disciplinary period Hyink shall not place her real estate license(s) on inactive status as would otherwise be allowed under 20 CSR 2250 4 050 Alternatively, without violating the terms and conditions of this Settlement Agreement Hyink may surrender her real estate license(s) by submitting a letter to the MREC and complying with 20 CSR 2250 8 155 If Hyink applies for a real estate license after surrender, Hyink shall be required to requalify as if an original applicant and the MREC will not be precluded from basing its decision wholly or partially on the findings of fact, conclusions of law and discipline set forth in this Settlement Agreement

C Hyink shall meet in person with the MREC or its representative at any such time or 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 Hyink shall immediately submit documents showing compliance with the requirements of this Settlement Agreement to the MREC when requested by the MREC or its designee

E During the probationary period, Hyink shall accept and comply with unannounced visits from the MREC's representative to monitor compliance with the terms and conditions of this Settlement Agreement

F Hyink shall comply with all relevant provisions of Chapter 339, RSMo, as amended all rules and regulations duly promulgated thereunder all local state and federal laws "State" as used herein includes the State of Missouri and all other states and territories of the United States

**G Quarterly Reports – Criminal Probation** Hyink shall obey and comply with all terms and conditions of probation for her criminal supervision Hyink shall prepare and submit quarterly written reports to the MREC regarding the status of and compliance with her criminal probation parole and/or release, as well as her compliance with the terms and conditions of this Settlement Agreement Hyink is responsible for ensuring that such quarterly reports are received by the MREC on or before January 10 April 10, July 10, and October 10 during each year of the disciplinary period Hyink shall submit the first such report so that the MREC receives it on or before January 10 2013

3 Upon the expiration of the disciplinary period, the license of Hyink shall be fully restored if all requirements of law have been satisfied, provided, however, that in the event the MREC determines that Hyink has

violated any term or condition of this Settlement Agreement, 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 Hyink s license

4 No additional discipline shall be imposed by the MREC pursuant to the preceding paragraph of 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

5 This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future violations by Hyink of Chapter 339, 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 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

7 If any alleged violation of this Settlement Agreement occurred during the disciplinary period, the parties agree that 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 Hyink agrees and stipulates that the MREC 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 MREC will maintain this Settlement Agreement as an open record of the MREC as required by Chapters 339 610, and 324 RSMo, as amended

11 Hyink, together with her partners, heirs assigns agents employees representatives and attorneys does 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

12 Hyink understands that she 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 Hyink s license If Hyink desires the Administrative Hearing Commission to review this Settlement Agreement Hyink may submit her request to Administrative Hearing Commission, Truman State Office Building, Room 640 301 W High Street, P O Box 1557 Jefferson City, Missouri 65102

13 If Hyink 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 Hyink's license. If the Administrative Hearing Commission issues an order stating that the Settlement Agreement does not set forth cause for discipline then the MREC may proceed to seek discipline against Hyink as allowed by law. If Hyink 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 MREC.

LICENSEE

Linda S Hyink 10/22/12  
Linda S Hyink Date

MISSOURI REAL ESTATE  
COMMISSION

Janet Carder  
Janet Carder, Executive Director  
Date November 20, 2012

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