

SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE COMMISSION
AND
MICHELLE PAULAKOVICH

RECEIVED
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MREC

Michelle Paulakovich (Paulakovich) and the Missouri Real Estate Commission (MREC) enter into this Settlement Agreement for the purpose of resolving the question of whether Paulakovich's license as a real estate salesperson, no. 2010034821, 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 MREC under § 621.110, RSMo Supp. 2012. The MREC and Paulakovich jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo Supp. 2012.

Paulakovich 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

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

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 Paulakovich 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 to her by law, Paulakovich 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.

Paulakovich 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. Paulakovich stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREC that Paulakovich's license as a real estate salesperson, license no. 2010034821, 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 Paulakovich in Part II herein is based only on the agreement set out in Part I herein.

Paulakovich 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 Paulakovich herein jointly stipulate to the following:

1. The MREC is an agency of the State of Missouri created and existing pursuant to § 339.120, RSMo Supp. 2012, for the purpose of executing and enforcing the provisions of §§ 339.010 to 339.205 and §§ 339.710 to 339.855, RSMo (as amended), relating to real estate salespersons and brokers.
2. Paulakovich holds a Missouri real estate real estate salesperson license, No. 2010034821. Paulakovich's license is, and was at all relevant times, valid.
3. On or about February, 1, 2007, Paulakovich was found guilty in the Lee's Summit Municipal Court, State of Missouri of Driving While Intoxicated.
4. Or or about May 5, 2004, Paulakovich was found guilty in the Lee's Summit Municipal Court, State of Missouri of Driving While Intoxicated.
5. On March 16, 2012 Paulakovich pled guilty in the Jackson County, Missouri Circuit Court, Case No. 1016-CR02502-01, to the Class D felony of Driving While Intoxicated-Persistent Offender, in violation of § 577.010, RSMo Supp. 2009 based on the Lee's Summit Municipal Court guilty findings..

6. The charges underlying the criminal case listed in paragraph 3 are, in pertinent part:

“[D]efendant, in violation of Section 577.010, committed the class D felony of driving while intoxicated...in that on or about March 28, 2010, at 24 Highway and sterling, Independence, in the County of Jackson, State of Missouri, the defendant operated a motor vehicle while under the influence of alcohol.”

7. On March 16, 2012, Paulakovich was sentenced to two years of supervised probation.

8. On August 9, 2011, Paulakovich pled guilty in U.S. District Court, Western District of Missouri, Case No. 11-00168-01-CR-W-DW, to the one count of felony Mail Fraud, in violation of Title 18 United States Code § 1343.

9. The charges underlying the criminal case were as follows, in pertinent part:

“Paulakovich...knowingly executed a scheme and artifice to defraud and to obtain money funds and credits and other property owned by and under the custody and control of Metro One, Inc. d/b/a Realty Executives Metro One and Independence Titles LLC d/b/a Metro One Title by means of material false and fraudulent pretenses, representations and promises contrary to 18 U.S.C. § 1343...”

10. On January 24, 2012, Paulakovich was sentenced by the U.S. District Court to 33 months in prison, 3 years of supervised release, and ordered to pay \$284,200.10 in restitution for Case No. 11-00168-01-CR-W-DW.

11. § 339.100.2, RSMo Supp. 2012, 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 act:

...

(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[.]

12. § 339.040.1, RSMo and RSMo Supp. 2012, 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[.]

13. Based on the conduct set forth herein and Paulakovich's pleas of guilt and convictions, Paulakovich has failed to demonstrate that she is a person of good moral character and bears a good reputation for honest, integrity, and fair dealing, which are grounds for the MREC to discipline a license under §339.100.2(16), RSMo Supp. 2012.

14. Paulakovich's guilty plea to the crimes of Driving While Intoxicated— Persistent Offender and Wire Fraud provides cause to discipline Paulakovich's license pursuant to § 339.100.2(18), RSMo Supp. 2012, in that Paulakovich pled guilty in criminal prosecutions under the laws of the State of Missouri and of the United States 1) to offenses that are reasonably related to the qualifications, functions and/or duties of a real estate salesperson, 2) to an offense of which an essential element is fraud or dishonesty, and 3) to offenses which involve moral turpitude.

15. Based on the conduct set forth herein and Paulakovich's pleas of guilt and convictions, Paulakovich engaged in conduct that constitutes untrustworthy, improper or fraudulent business dealing and demonstrates bad faith and gross negligence, providing further cause to discipline Paulakovich's license pursuant to § 339.100.2(19), RSMo Supp. 2012.

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 §§ 621.045.4 and 621.110, RSMo Supp. 2012.

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

2. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future violations by Paulakovich of §§ 339.010 through 339.205 and §§ 339.710 through 339.855, 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 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.

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 MREC will maintain this Settlement Agreement as an open record of the MREC as required by Chapters 324, 339, and 610, RSMo, as amended.

7. Paulakovich, 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.

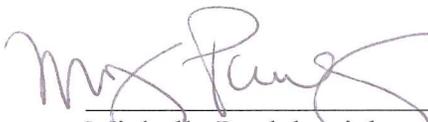
8. Paulakovich understands that she may, either at the time the Settlement Agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Paulakovich's license. If Paulakovich

desires the Administrative Hearing Commission to review this Settlement Agreement, Paulakovich 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.

9. If Paulakovich 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 Paulakovich'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 Paulakovich as allowed by law. If Paulakovich 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

MISSOURI REAL ESTATE
COMMISSION

 2-3-2013
Michelle Paulakovich Date


Janet Carder, Executive Director
Date: March 14, 2013

CHRIS KOSTER
Attorney General


Ron Dreisilker
Assistant Attorney General
Missouri Bar No. 64825

Supreme Court Building
207 West High Street
P.O. Box 899
Jefferson City, MO 65102
Telephone: 573-751-7728
Telefax: 573-751-5660

Attorneys for the MREC