

SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE COMMISSION
AND
PAUL V. PERNICIARO

Paul V. Perniciaro (Perniciaro) and the Missouri Real Estate Commission (MREC) enter into this Settlement Agreement for the purpose of resolving the question of whether Perniciaro's licenses as a real estate broker-associate, no. 2009003486,¹ a real estate broker-associate, no. 1999000482, and a real estate broker-associate, no. 2008000927, will be subject to discipline. Pursuant to § 536.060, RSMo 2000,² the parties hereto waive the right to a disciplinary hearing before the MREC under § 621.110, RSMo Supp. 2012. The MREC and Perniciaro jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo Supp. 2012.

Perniciaro acknowledges that he understands the various rights and privileges afforded him by law, including the right to a disciplinary hearing before the MREC at which time Perniciaro may present evidence in mitigation of discipline; the right to a claim for attorney fees and expenses;

¹ In the Decision of the AHC, License No. 2009003486 is referenced as a broker-officer license, but since the hearing on the matter, Perniciaro converted the license to broker-associate effective August 14, 2013.

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

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, Perniciaro 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.

Perniciaro 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. Perniciaro stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREC that Perniciaro's license as a real estate broker-associate, no. 2009003486, a real estate broker-associate, no. 1999000482, and a real estate broker-associate, no. 2008000927, are subject to disciplinary action by the MREC in accordance with the relevant provisions of Chapter 621, RSMo, and §§ 339.010 to 339.205 and 339.710 to 339.855, RSMo, as amended.

The parties stipulate and agree that the disciplinary order agreed to by the MREC and Perniciaro in Part II herein is based only on the agreement set out in Part I herein. Perniciaro understands that the MREC may take further disciplinary action against him 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 Perniciaro herein jointly stipulate to the following:

1. On September 16, 2013, in the case of *Missouri Real Estate Commission v. Paul V. Perniciaro and New Home Realtors, LLC*, case no. 11-0532 RE, the Missouri Administrative Hearing Commission issued a decision, setting forth findings of fact and conclusions of law, in which it concluded that there is cause to discipline the real estate licenses of Perniciaro and New Home Realtors, LLC under § 339.100.2(2), (14), (15), and (24), RSMo (referred to herein as the "AHC Decision"). A true and accurate copy the AHC Decision is attached hereto as Exhibit A and adopted and incorporated herein by reference.

2. After the AHC Decision was issued, but before the MREC could hold a disciplinary hearing regarding the appropriate disciplinary action to take against Perniciaro's real estate licenses, the MREC and Perniciaro agreed to the terms of settlement that are embodied in Section II of this Settlement Agreement. Perniciaro is knowingly and voluntarily waiving his

right to a formal decision from the MREC, as well as those rights set forth in the introduction to this Settlement Agreement.

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.

3. **Perniciaro's licenses are on probation.** Perniciaro's real estate broker-associate licenses are hereby placed on PROBATION for a period of FIVE YEARS. The period of probation shall constitute the "disciplinary period." During the disciplinary period, Perniciaro shall be entitled to practice as a real estate broker-associate under §§ 339.010 through 339.205 and 339.710 through 339.855, RSMo, as amended, provided Perniciaro adheres to all the terms of this agreement.

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

A. Perniciaro shall keep the MREC apprised at all times of his current address and telephone number at each place of residence and

business. Perniciaro shall notify the MREC in writing within ten (10) days of any change in this information.

B. Perniciaro shall timely renew his real estate license(s), timely pay all fees required for license renewal and shall comply with all other requirements necessary to maintain his license(s) in a current and active status. During the disciplinary period, Perniciaro shall not place his real estate license(s) on inactive status as would otherwise be allowed under 20 CSR 2250-4.040. Alternatively, without violating the terms and conditions of this Settlement Agreement, Perniciaro may surrender his real estate license(s) by submitting a letter to the MREC and complying with 20 CSR 2250-8.155. If Perniciaro applies for a real estate license after surrender, Perniciaro 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. Perniciaro 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. Perniciaro 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, Perniciaro 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. Perniciaro 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. Any cause to discipline Perniciaro's licenses as a real estate broker under § 339.532.2, RSMo, as amended, that accrues during the disciplinary period shall also constitute a violation of this Settlement Agreement.

5. Upon the expiration of the disciplinary period, the license of Perniciaro shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the MREC determines that Perniciaro 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 Perniciaro's license.

6. 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.

7. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future violations by Perniciaro of §§ 339.010 to 339.205 and 339.710 to 339.855, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

8. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning facts or conduct not specifically mentioned in the Decision that are either now known to the MREC or may be discovered.

9. 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. Perniciaro agrees and stipulates that the MREC has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

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

11. 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.

12. 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.

13. Perniciaro, together with his 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.

14. This Settlement Agreement goes into effect fifteen (15) days after the document is signed by the Executive Director of the MREC.

LICENSEE

MISSOURI REAL ESTATE
COMMISSION

Paul V. Perniciaro
Paul V. Perniciaro
Date: 4-15-14

Janet Carder
Janet Carder, Executive Director
Date: 6-11-14

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