

**SETTLEMENT AGREEMENT**  
**BETWEEN**  
**MISSOURI REAL ESTATE COMMISSION**  
**AND**  
**BRYAN D. SLOAN**

Bryan D. Sloan (Sloan) and the Missouri Real Estate Commission (MREC) enter into this Settlement Agreement for the purpose of resolving the question of whether Sloan's license as a Real Estate Broker Officer, no. 2003030668, will be subject to discipline. Pursuant to Section 536.060, RSMo,<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 Section 621.110, RSMo. The MREC and Sloan jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to Section 621.045, RSMo.

Sloan 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

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<sup>1</sup> All statutory citations are to the Revised Statutes of Missouri, Supp. 2012, unless otherwise noted.

against him at the hearing; the right to present evidence on his 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 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 Sloan 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 him by law, Sloan 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.

Sloan 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. Sloan stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREC that Sloan's license as a Real Estate Broker Officer, license no. 2003030668, is subject to disciplinary action by the MREC in accordance with the relevant provisions

of Chapter 621, RSMo, and Sections 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 Sloan in Part II herein is based only on the agreement set out in Part I herein. Sloan 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 Sloan herein jointly stipulate to the following:

1. The Missouri Real Estate Commission is an agency of the State of Missouri, created and established pursuant to Section 339.120, RSMo, for the purpose of executing and enforcing the provisions of Chapter 339, RSMo, Real Estate Agents, Real Estate Brokers, Appraisers and Escrow Agents.
2. Respondent, Bryan D. Sloan, is an adult individual whose registered address is 3430 NE Rock Creek Drive, Kansas City, Missouri 64116, and who holds a Missouri license as Real Estate Broker Officer, no. 2003030668, which is active and which expires June 30, 2014. His

residential address is 7500 West 151<sup>st</sup> Street, #24206, Overland Park, Kansas 66283.

3. Sloan is affiliated with Rock Creek Realty, Inc., 3430 NE Rock Creek Drive, Kansas City, Missouri 64116.

### **Applicable Law**

4. Section 339.100.2, RSMo, at all times in question stated in pertinent part:

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:

(1) Failure to maintain and deposit in a special account, separate and apart from his or her personal or other business accounts, all money belonging to others entrusted to him or her while acting as a real estate broker or as the temporary custodian of the funds of others, until the transaction involved is consummated or terminated, unless all parties having an interest in the funds have agreed otherwise in writing;

\* \* \*

(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 of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860 ...

5. Section 339.105, RSMo, at all times in question stated in pertinent part:

1. 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.

2. Each broker shall notify the commission of his or her intent not to maintain an escrow account, or the name of the financial institution in which each escrow or trust account is maintained, the name and number of each such account, and shall file written authorization directed to each financial institution to allow the commission or its authorized representative to examine each such account; such notification and authorization shall be submitted on forms provided therefor by the commission. A broker shall notify the commission within ten business days of any change of his or her intent to maintain an escrow account, the financial institution, account numbers, or change in account status.

3. In conjunction with each escrow or trust account a broker shall maintain books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The account and other records shall be provided to the commission and its duly authorized agents for inspection at all times during regular business hours at the broker's usual place of business.

6. Section 339.780.2 at all times in question stated in pertinent part:

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.

7. The MREC has adopted a valid regulation codified at 20 CSR 2250-8.090, which at all times in question stated in pertinent part:

(1) A licensee shall not advertise or place a sign upon any property offering it for sale or lease to prospective customers without the written consent of the owner or his or her duly authorized agent.

(2) A licensee shall not show residential property unless a broker holds a currently effective written seller's/lessor's agency agreement, seller's/lessor's transaction brokerage agreement, or other written authorization to show.

8. The MREC has adopted a valid regulation codified at 20 CSR 2250-8.120, which at all times in question stated in pertinent part:

(1) All money received by a licensee as set out in section 339.100.2(1), RSMo shall be deposited in the escrow or trust account maintained by the broker no later than ten (10) banking days following the last date on which the signatures or initials, or both, of all the parties to the contract are obtained, unless otherwise provided in the contract. Earnest money received prior to acceptance of a written contract may be deposited into the

escrow account by the broker with the written authorization of the party(ies) providing the funds.

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(4) Each broker shall deposit into the escrow or trust account all funds coming into the broker's possession as set out in section 339.100.2(1), RSMo, including funds in which the broker may have some future interest or claim and including, but not limited to, earnest money deposits, prepaid rents, security deposits, loan proceeds and funds paid by or for the parties upon closing of the transaction. No broker shall commingle personal funds or other funds in the broker's escrow account except to the extent provided by section 339.105.1, RSMo. ...

9. The MREC has adopted a valid regulation codified at 20 CSR 2250-8.200(1), which at all times in question stated in pertinent part:

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 transaction 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.

10. The MREC has adopted a valid regulation codified at 20 CSR 2250-8.220, which at all times in question stated in pertinent part:

(1) A broker shall establish and maintain a separate escrow account(s), to be designated as a property management escrow account(s), for the deposit of current rents and money received from the owner(s) or on the owner's(s') behalf for payment of expenses related to property management. Before making

disbursements from a property management escrow account, a broker shall ensure that the account balance for that owner's(s) property(ies) is sufficient to cover the disbursements.

(2) All security deposits held by a broker shall be maintained, intact, in an escrow account other than the property management account(s), pursuant to section 339.105, RSMo, unless the owner(s) have agreed otherwise in writing.

(3) All money received by a broker in connection with any property management must be deposited within ten (10) banking days to the escrow or trust account maintained by the broker.

### **Bruhgardt Matter**

11. In June 2008 Larry Bruhgardt and Karen Bruhgardt, through their company LB & KB Enterprises, LLC, purchased two duplex properties located at 10601/10603 East 78<sup>th</sup> Terrace, Raytown, Missouri, and 6417/6423 Blue Ridge Cutoff, Raytown, Missouri, as investment rental properties.

12. Shortly after purchasing the properties, Sloan agreed to manage the properties for the Bruhgardts.

13. No written property management agreement was ever executed authorizing Sloan to manage the properties for the Bruhgardts.

14. Between 2008 and 2012, Sloan managed the properties, including activities such as securing tenants, executing leases with tenants, collecting rents, hiring and paying contractors for repairs, and performing repairs himself.

15. Sloan did not establish a property management escrow account for the properties.

16. Sloan received money in the form of rents, security deposits, and other funds, and deposited them into his personal checking account, which was not an escrow account separate from his own funds.

17. Sloan made disbursements of funds related to the properties, including owners' distributions and payment to vendors and suppliers out of his personal checking account, which was not an escrow account separate from his own funds.

18. Sloan retained \$75 per month for each unit in his personal account as payment for his services.

19. On August 6, 2012, Sloan sent the Bruhgardts letters informing them that he was transferring management of the properties to them and terminating his services.

20. By entering into a property management contract without a written property management agreement, Sloan violated Section 339.780.2, RSMo, 20 CSR 2250-8.090(1) and (2), and 20 CSR 2250-8.200(1), which is cause for discipline under the terms of Section 339.100.2(15).

21. By depositing and maintaining funds received in the management of rental property on behalf of another, Sloan violated Section 339.100.2(1), which is cause for discipline.

22. By depositing and maintaining funds received in the management of rental property on behalf of another, Sloan violated Section 339.105, Paragraphs (1), (2), and (3); 20 CSR 2250-8.120(1) and (4); and 20 CSR 2250-8.220(1) and (2), each of which is cause for discipline under the terms of Section 339.100.2(15), RSMo.

## 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 Section 536.060, RSMo, and Section 621.045.3 and 621.110, RSMo.

1. **Civil Penalty.** Sloan agrees to pay a civil penalty of \$500. Said penalty is authorized under Section 339.205, RSMo.

a. Sloan agrees to pay the \$500 civil penalty by certified 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. Sloan shall postmark and mail or hand deliver said check within 60 days of the date when this Settlement Agreement becomes effective.

b. 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.

c. In the event the MREC determines that Sloan has failed to pay any portion of the \$500 agreed upon herein or has violated any other term or condition of this Settlement Agreement, the MREC may, in its discretion:

(1) 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 Section 339.205.4, RSMo;

(2) after an evidentiary hearing, vacate and set aside the penalty imposed herein and may probate, suspend, revoke, or otherwise lawfully discipline Sloan’s license under Section 324.042, RSMo; and

(3) deny, discipline, or refuse to renew or reinstate Sloan's license under Section 339.205.7, RSMo.

2. **Sloan's license is on probation.** Sloan's license as a Real Estate Broker Officer is hereby placed on PROBATION for a period of TWO YEARS. The period of probation shall constitute the "disciplinary period." During the disciplinary period, Sloan shall be entitled to practice as a Real Estate Broker Officer under Sections 339.010 to 339.205 and 339.710 to 339.855, RSMo, as amended, provided Sloan adheres to all the terms of this agreement.

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

A. Sloan shall keep the MREC apprised at all times of his current address and telephone number at each place of residence and business. Sloan shall notify the MREC in writing within ten (10) days of any change in this information.

B. Sloan shall timely renew his real estate license, timely pay all fees required for license renewal and shall comply with all other requirements necessary to maintain his license in a current and active status. During the disciplinary period, Sloan shall not place his real estate license 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, Sloan may surrender his real estate license by submitting a letter to the MREC and complying with 20 CSR 2250-8.155. If Sloan applies for a real estate license after surrender, Sloan 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. Sloan 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. Sloan 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, Sloan 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. Sloan 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 Sloan’s license as a real estate broker officer under Sections 339.100.2, RSMo, as amended, that accrues during the disciplinary period shall also constitute a violation of this Settlement Agreement.

G. **Broker Acknowledgement.** If at any time during the disciplinary period Sloan wishes to transfer his license affiliation to a new broker/brokerage, he must submit a Broker Acknowledgment form signed by the new broker. This acknowledgement is in addition to any other required application, fee, and documentation necessary to transfer his license. Sloan must obtain the Broker Acknowledgement form from the MREC.

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

5. 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.

6. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future violations by Sloan of Sections 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.

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 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. Sloan 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 324, 339, and 610, RSMo, as amended.

12. Sloan, 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 Section 536.087, RSMo (as amended), or any claim arising under 42 U.S.C. Section 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. Sloan understands that he 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 Sloan's license. If Sloan desires the Administrative Hearing Commission to review this Settlement Agreement, Sloan may submit his request to:

Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65102.

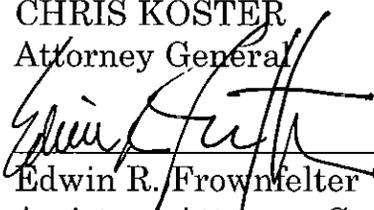
14. If Sloan requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Sloan's license. If Sloan does not request review by the Administrative Hearing Commission, this Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREC.

LICENSEE

Missouri Real Estate Commission

  
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Bryan D. Sloan  
Date: 7/10/14

  
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Janet Carder, Executive Director  
Date: July 29, 2014

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