

FINDINGS OF FACT

Based upon the foregoing the MREC hereby states

1 The MREC is an agency of the State of Missouri created and existing pursuant to § 339.120 RSMo for the purpose of executing and enforcing the provisions of § 339.010 to 339.205 and § 339.710 to 339.860 RSMo and the regulations promulgated thereunder relating to real estate salespersons and brokers

2 Stewart is a natural person residing at the address of 101 E. Pacific Dr. Belton Missouri 64012

3 On or about August 3, 2012, the MREC received Stewart's application for a real estate salesperson license (Application)

4 On her Application, question 4.13, Stewart was asked if she had been finally adjudicated and found guilty or entered a plea of guilty or nolo contendere in a criminal prosecution in this state or any other state or of the United States, whether or not sentence was imposed? **NOTE: This includes Suspended Imposition of Sentence, Suspended Execution of Sentence, and alcohol related offenses, i.e. DWI and BAC.** Stewart responded YES to question 4.13.

5 On or about September 28, 2008, in Case No. 08LF-CR00607-01, Stewart pled guilty in the Lafayette County Circuit Court to the crimes of Burglary in the Second Degree and Stealing, both class C felonies.

- 6 On or about November 17 2008 in Case No 08LF CR00607 01 the Court issued a suspended imposition of sentenced and placed Stewart on five years supervised probation
- 7 On or about June 22 2009 in Case No 0916 CR00626 Stewart pled guilty in the Jackson County Circuit Court to the crimes of Burglary in the Second Degree and Stealing both class C felonies
- 8 On or about November 16 2009 in Case No 0916 CR00626 the Court issued a suspended imposition of sentenced and placed Stewart on two years supervised probation
- 9 Stewart successfully completed the supervised probation for Case No 0916 CR00626 and the case was closed on November 16 2011
- 10 Stewart failed to disclose on her application that she pled guilty to Burglary in the *Second Degree and Stealing in Jackson County Circuit Court in 2009*
- 11 The crimes of Burglary in the Second Degree and Stealing are offenses of which an essential element is fraud dishonesty or an act of violence and/or is a crime involving moral turpitude and the commission of these crimes demonstrates a lack of regard for the health safety and welfare of the public
- 12 The crimes of Burglary in the Second Degree and Stealing are offenses reasonably related to the qualifications functions and duties of a real estate salesperson
- 13 Stewart's failure to disclose on her application that she had pled guilty to the crimes of Burglary in the Second Degree and Stealing in Jackson County Circuit Court in 2009 is an act of dishonesty

II

CONCLUSION OF LAW

14 As a result of the conduct identified in Section I herein cause exists for the MREC to deny Stewart s application for a real estate salesperson license pursuant to § 339 080 1 RSMo which provides The commission may refuse to examine or issue a license to any person known by it to be guilty of any of the acts or practices specified in subsection 2 of section 339 100

15 As a result of the conduct identified in Section I herein cause exists for the MREC to deny Stewart s application for a real estate salesperson license pursuant to the provisions of § 339 100 2(10) (16) (18) (19) and (25) RSMo which state

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

(10) Obtaining a certificate or registration of authority permit or license for himself or herself or anyone else by false or fraudulent representation fraud or deceit

(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

(25) Making any material misstatements misrepresentations or omission with regard to any application for licensure or license renewal As used in this section material means important information about which the commission should be informed and which may influence a licensing decision

16 Section 339 040 1 RSMo provides that licenses shall be issued only to persons of good moral character who bear a good reputation for honesty integrity and fair dealing and who are competent to transact the business of a real estate salesperson in a manner so as to safeguard the public's interest

17 As a result of the criminal conduct identified in Section I herein Stewart has engaged in conduct and has pleaded guilty to crimes that adversely affect her moral character her reputation and her fitness and qualifications to practice as a real estate salesperson

18 As an alternative to refusing to issue a license the MREC may at its discretion issue a license subject to probation pursuant to § 324 038 1 RSMo which provides

Whenever a board within or assigned to the division of professional registration including the division itself when so empowered may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of license the board as an alternative to refusing to

issue a license may at its discretion issue to an applicant a license subject to probation

19 The MREC issues this Order in lieu of denial of Stewart's application for a real estate salesperson license. The MREC has determined that this Order is necessary to ensure the protection of the public.

III

TERMS AND CONDITIONS

20 Based on the foregoing, the Missouri real estate salesperson license issued to Stewart is subject to the following terms and conditions:

21 Stewart's license is on probation for two years. Stewart's real estate salesperson license is hereby placed on PROBATION for a period of TWO YEARS from the effective date of this Order. During the period of probation on her real estate salesperson license, Stewart shall be entitled to practice as a real estate salesperson provided she adheres to all the terms stated herein. The period of probation shall constitute the *disciplinary period*.

22 Terms and conditions of the disciplinary period. Terms and conditions of the disciplinary period are as follows:

A Stewart's license shall remain affiliated with Reece & Nichols Realtors Inc. Should Stewart terminate her affiliation with Reece & Nichols Realtors Inc, Stewart shall be prohibited from affiliating with any other licensee without prior approval from the Commission.

B Stewart shall obey and comply with the terms and conditions of probation for her criminal supervision Stewart 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 the terms and conditions of this probated license order Stewart 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 Stewart shall submit the first such report so that the MREC receives it on or before January 10 2013

C Stewart shall keep the MREC apprised at all times in writing of her current address and telephone number at each place of residence and business Stewart shall notify the MREC in writing within ten days of any change in this information

D Stewart shall timely renew her Missouri real estate salesperson license timely pay all fees required for license renewal and comply with all other requirements necessary to maintain her license in a current and active state

E Stewart shall meet in person with the MREC or its representative at any such time and 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

F Stewart shall immediately submit documents showing compliance with the requirements of this Order to the MREC when requested by the MREC or its designee

G During the probationary period Stewart shall accept and comply with unannounced visits from the MREC s representatives to monitor compliance with the terms and conditions of this Order

H If at any time within the disciplinary period Stewart changes residence from the State of Missouri ceases to be currently licensed in Missouri under the relevant provisions of Chapter 339 RSMo as amended fails to timely pay all fees required for license renewal or fails to keep the MREC advised of all current places of residence and business the time of absence unlicensed status delinquency in paying fees for license renewal or unknown whereabouts shall not be deemed or taken as any part of the disciplinary period

I Stewart shall comply with all relevant provisions of Chapter 339 RSMo as amended all rules and regulations of the MREC and all local state and federal laws State as used herein refers to the State of Missouri and all other states and territories of the United States

23 Upon the expiration and successful completion of the disciplinary period Stewart s real estate salesperson license shall be fully restored if all other requirements of the law have been satisfied provided however that in the event the MREC determines that Stewart has violated any term or condition of this Order 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 Stewart s real estate salesperson license

24 No order shall be entered by the MREC pursuant to the preceding paragraph of this Order without notice and an opportunity for hearing before the MREC in accordance with the provisions of Chapter 536 RSMo

25 If the MREC determines that Stewart has violated a term or condition of this Order which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court the MREC may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Order in its determination of appropriate legal actions concerning such violation

26 If any alleged violation of this Order occurs during the disciplinary period 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 The MREC has continuing jurisdiction to hold a hearing to determine if a violation of this Order has occurred

27 The MREC will maintain this Order as an open and public record of the MREC as provided in Chapters 339 610 and 324 RSMo

SO ORDERED AND EFFECTIVE THIS 15TH DAY OF October 2012



Janet Carder Executive Director
Missouri Real Estate Commission