SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE COMMISSION
AND
JONATHAN C. WEINZIRL

Jonathan C. Weinzirl ("Weinzirl") and the Missouri Real Estate Commission ("MREC") enter into this Settlement Agreement for the purpose of resolving the question of whether Weinzirl's license as a real estate salesperson, license no. 2013002626, 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. 2013). The MREC and Weinzirl jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo (Supp. 2013).

Weinzirl 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 against him at the hearing; the right to present evidence on his behalf at the

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

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 Weinzirl 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, Weinzirl 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.

Weinzirl 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. Weinzirl stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREC that Weinzirl's license as a real estate salesperson, license no. 2013002626, is subject to disciplinary action by the MREC in accordance with the relevant provisions of Chapter 621, RSMo, and Chapter 339, RSMo, as amended.

The parties stipulate and agree that the disciplinary order agreed to by the MREC and Weinzirl in Part II herein is based only on the agreement set out in Part I herein. Weinzirl 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 Weinzirl herein jointly stipulate to the following:

1. Weinzirl holds a Missouri real estate salesperson license, no. 2013002626. Weinzirl's license is, and was, valid at all times relevant herein.

2. On February 1, 2013, Weinzirl pled guilty in the Circuit Court of Greene County, Missouri ("the court"), case no. 1231-CR03367-01 ("the criminal case"), to the class C felony of distributing or delivering not more than five grams of marijuana, in violation of § 195.211, RSMo (Supp. 2012).

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

> The Prosecuting Attorney of the County of Greene, State of Missouri, charges that the defendant, in violation of Section 195.211, RSMo, committed the class C felony of distribution of a controlled substance, punishable upon conviction under Sections 558.011 and 560.011, RSMo, in that on or

> about January 4, 2011, in the County of Greene, State of Missouri, the defendant knowingly distributed marijuana, a controlled substance, to Daryl Ferris, knowing that it was a controlled substance.

4. Section 195.211, RSMo (Supp. 2012), regarding distribution, delivery, manufacture or production of a controlled substance, states in pertinent part:

> 1. Except as authorized by sections 195.005 to 195.425 and except as provided in section 195.222, it is unlawful for any person to distribute, deliver, manufacture, produce or attempt to distribute, deliver, manufacture or produce a controlled substance or to possess with intent to distribute, deliver, manufacture, or produce a controlled substance.
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> . . .
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> 4. Any person who violates this section with respect to distributing or delivering not more than five grams of marijuana is guilty of a class C felony.

5. On May 3, 2013, the court suspended the imposition of Weinzirl's sentence and placed Weinzirl on supervised probation for five years.

6. Section 339.100.2, RSMo (Supp. 2013), which authorizes the MREC to file a complaint with the Administrative Hearing Commission, 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:
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> . . .
>
> (16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;
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> . . .
>
> (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[.]

7. Section 339.040.1, RSMo (Supp. 2013), relating to license requirements, provides:

> 1. Licenses shall be granted only to persons who present . . . satisfactory proof to the commission that they:
>
> (1) Are persons of good moral character[.]

8. By pleading guilty to the class C felony of distributing or delivering not more than five grams of marijuana and engaging in the conduct underlying that crime, Weinzirl demonstrated that he lacks good moral character, which is a ground for the MREC to refuse to issue a license

under § 339.040.1(1), RSMo, and, therefore, cause to discipline Weinzirl's license pursuant to § 339.100.2(16), RSMo (Supp. 2013).

9. By pleading guilty to the class C felony of distributing or delivering not more than five grams of marijuana, Weinzirl pled guilty to an offense reasonably related to the qualifications, functions or duties of a real estate salesperson and an offense involving moral turpitude. Therefore, cause exists to discipline Weinzirl's license pursuant to § 339.100.2(18), RSMo (Supp. 2013).

10. Cause exists to discipline Weinzirl's real estate salesperson license pursuant to § 339.100.2(16) and (18), RSMo (Supp. 2013).

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. 2013).

1. **Weinzirl's license is on probation.** Weinzirl's license as a real estate salesperson is hereby placed on PROBATION for a period of FIVE YEARS. The period of probation shall constitute the "disciplinary period." During the disciplinary period, Weinzirl shall be entitled to practice as a real

estate salesperson under Chapter 339, RSMo, as amended, provided Weinzirl 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. Weinzirl shall keep the MREC apprised at all times of his current address and telephone number at each place of residence and business. Weinzirl shall notify the MREC in writing within ten (10) days of any change in this information.

B. Weinzirl 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, Weinzirl shall not place his 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, Weinzirl may surrender his real estate license(s) by submitting a letter to the MREC and complying with 20 CSR 2250-8.155. If Weinzirl applies for a real estate license after surrender, Weinzirl 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. Weinzirl 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. Weinzirl 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, Weinzirl 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. Weinzirl 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 Weinzirl's license as a real estate salesperson under § 339.532.2, 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 Weinzirl 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. Weinzirl must obtain the Broker Acknowledgement form from the MREC.

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

12. Weinzirl 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 Weinzirl's license. If Weinzirl desires the Administrative Hearing Commission to review this Settlement Agreement, Weinzirl 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.

13. If Weinzirl 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 Weinzirl'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 Weinzirl as allowed by law. If Weinzirl 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

Jonathan C. Weinzirl

Date: 12/01/2014

MISSOURI REAL ESTATE COMMISSION

Janet Carder, Executive Director

Date: 12-11-14

CHRIS KOSTER
Attorney General

NICHOLE BOCK
Assistant Attorney General
Missouri Bar No. 64222

Supreme Court Building
207 West High Street
P.O. Box 899
Jefferson City, MO 65102
Telephone: 573-751-4087
Telefax: 573-751-5660
Attorneys for the MREC