BEFORE THE MISSOURI
REAL ESTATE APPRAISERS COMMISSION

In the Matter of the Application of:	)
	)
KENENTH HERRING,	)
	)
Applicant.	)

ORDER OF THE MISSOURI REAL ESTATE APPRAISERS COMMISSION
ISSUING AN AMENDED PROBATED CERTIFICATION TO KENENTH HERRING

Pursuant to § 620.149, RSMo, the Missouri Real Estate Appraisers Commission (the "MREAC") hereby issues its ORDER granting a **PROBATIONARY STATE RESIDENTIAL APPRAISER CERTIFICATION** to Kenneth Herring, Certificate No. 2008029157. As set forth in § 620.149.2, RSMo 2000, either the MREAC or Kenneth Herring may submit a written request to the Administrative Hearing Commission seeking a hearing and review of the MREAC's decision to issue a probated certification. Any such written request must be filed with the Administrative Hearing Commission within 30 days of delivery or mailing of this Order of the MREAC. The written request should be addressed to the Administrative Hearing Commission, P.O. Box 1557, Truman State Office Building, Room 640, Jefferson City, MO 65102-1557. If no written request for review is filed with the Administrative Hearing Commission within the 30-day period, the right to seek review of the MREAC's decision shall be considered waived. Should Herring file a written request for review of this Order, the terms and conditions of this Order shall remain in force and effect unless and/or until such time as the Administrative Hearing Commission issues an Order to the contrary.

I.

In support of the foregoing, the MREAC hereby states:

FACTUAL BASIS

1. The MREAC is an agency of the state of Missouri created and established pursuant to § 339.507, RSMo, for the purpose of executing and enforcing the provisions of § 339.500 to § 339.549, RSMo (as amended).

2. On or about June 20, 2008, Kenneth Herring ("Herring") submitted an application to the MREAC to be state-certified as a residential real estate appraiser.

3. On or about September 3, 2008, Kenneth Herring entered a plea of guilty to, or was adjudicated or found guilty of, one felony count of Leaving The Scene of A Motor Vehicle Accident in the Thirteenth Judicial Circuit Court of Callaway County, Missouri (case # 08CW-CR00672).

4. The aforementioned criminal offense is a crime involving moral turpitude, an offense reasonably related to the qualifications, functions and duties of a real estate appraiser and/or a crime of which an essential element is fraud or dishonesty

II.

CONCLUSIONS OF LAW

5. The MREAC has authority to deny or refuse an application for license pursuant to § 339.532.1. RSMo 2000, and § 339.532.2(4), RSMo 2000, which provide:

> 1. The commission may refuse to issue or renew any certificate or license issued pursuant to sections 339.500 to 339.549 for one or any combination of causes stated in subsection 2 of this section. The commission shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.
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> 2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any state-certified real estate appraiser, state-licensed real estate appraiser, or any person who has failed to renew or has surrendered his or his certificate or license for any one or any combination of the following causes:

> (4) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 339.500 to 339.549 for any offense of which an essential element is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed[.]

7. As a result of Herring being adjudicated or found guilty of, or having plead guilty to, Leaving The Scene of A Motor Vehicle Accident, the MREAC has cause to deny or refuse Herring's application for a residential real estate appraiser certification pursuant to § 339.532.1, RSMo, and § 339.532.2(4), RSMo 2000.

8. As an alternative to refusing to issue a license, the MREAC may, at its discretion, issue a license subject to probation, pursuant to § 620.149, RSMo 2000, which provides:

> Whenever a board within 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.

9. The MREAC issues this Order in lieu of denial of Herring's application for a residential real estate appraiser certification. In light of the foregoing conduct, the MREAC has determined that this Order is necessary to ensure the protection of the public health, safety and welfare.

II.

TERMS AND CONDITIONS

10. Based on the foregoing, the MREAC hereby grants a **PROBATED CERTIFICATION**, to Kenneth Herring as a state-certified residential real estate appraiser under Chapter 339, RSMo. Herring's residential real estate appraiser certification shall

immediately be placed on **PROBATION** from the effective date of this Order, subject to the following terms and conditions:

A. Herring shall be entitled to engage in the practice of real estate appraising as a certified residential real estate appraiser pursuant to § 339.500 to § 339.549, RSMo, as amended, provided Herring adheres to all of the terms and conditions of this Order. **Herring shall be placed on probation for a period of five (5) years or, alternatively, Herring's probationary period shall terminate on the date he successfully completes the criminal probation imposed on Herring in Missouri case # 08-CW-CR00672, as the result of Herring being adjudicated or found guilty of, or having plead guilty to, Leaving The Scene of A Motor Vehicle Accident, whichever is earlier.**

B. During the probationary period, Herring shall not supervise any real estate appraisal, as defined by § 339.503(1), RSMo (as amended), of property located in the state of Missouri nor sign any appraisal for property located in Missouri as an appraisal supervisor.

C. During the probationary period, Herring shall maintain a log of all appraisal assignments completed, including appraisal values. Herring shall submit a true and accurate copy of his log to the MREAC every three (3) months after the effective date of this Order. Each log, except for the final log, shall be submitted within 15 days after the end of the respective six month period. Herring shall submit the final log 30 days prior to the end of the probationary period. All logs shall comply with rule 20 CSR 2245-2.050.

D. During the probationary period, Herring shall submit samples of his appraisals as requested by the MREAC for review.

E. During the probationary period, Herring shall comply with all applicable provisions of Chapter 339, RSMo, as amended, all applicable MREAC regulations and all applicable federal and state laws. "State" includes the state of Missouri, all other states and territories of the United States, and the ordinances of their political subdivisions.

F. Herring shall cause a letter from his probation or parole officer to be submitted to the MREAC prior to the expiration of his probationary license period. The letter shall indicate Herring's progress and compliance status with regard to the terms of his criminal probation/parole and the results of any random drug screen tests conducted as part of the program.

G. If Herring successfully completes his period of criminal probation/parole during the course of his license probation, Herring shall cause his probation or parole office to submit a letter to the MREAC stating that he has successfully completed his period of probation or parole.

H. All correspondence required from Herring's probation or parole officer shall be sent by the probation and parole officer and addressed to: Missouri Real Estate Appraisers Commission, 3605 Missouri Boulevard, P.O. Box 1335, Jefferson City, Missouri 65102.

I. Herring shall meet in person with the MREAC or its representative at any such time and place as required by the MREAC or its designee upon notification from the MREAC or its designee. Said meetings will be at the MREAC's discretion and may occur periodically during the probationary period.

J. Herring shall immediately submit documents showing compliance with the requirements of this Order to the MREAC when requested by the MREAC or its designee.

K. Herring shall keep the MREAC apprised of his current home and work addresses and telephone numbers. Herring shall inform the MREAC in writing within ten (10) days of any change in this information.

L. During the probationary period, Herring shall timely renew his certificate, timely pay all fees required for certification and comply with all other requirements necessary to maintain his certificate current and active.

M. During the probationary period, Herring shall accept and comply with unannounced visits from the MREAC's representatives to monitor compliance with the terms and conditions of this Order.

N. This Order does not bind the MREAC or restrict the remedies available to the MREAC for any violation of § 339.500 to § 339.549, RSMo, as amended, not specifically mentioned in this document.

O. If Herring fails to comply with the terms of this order during the probationary period, in any respect, the MREAC may choose to conduct a hearing before it either during the probationary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred. In the event MREAC determines that Herring has violated any term or condition of this Order, the MREAC may, in its discretion, vacate this Order and may impose additional discipline as deemed appropriate by the MREAC, including revocation of the certificate, pursuant to § 620.153, RSMo. The MREAC has continuing jurisdiction to hold a hearing to determine if a violation of this Order has occurred.

P. Upon the expiration of the probationary period, Herring's certification shall be fully restored if all other requirements of law have been satisfied provided, however, that in the event the MREAC determines that Herring has violated any term or condition of this Order, the MREAC may, in its discretion, vacate and set aside the probation imposed herein and may impose any other lawful discipline the MREAC shall deem appropriate, including, revocation of said certification. No order shall be entered by the MREAC pursuant to this paragraph without any required notice and opportunity for a hearing before the MREAC in accordance with Chapter 536, RSMo, as amended.

Q. If the MREAC determines that Herring 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 MREAC 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 that violation.

R. If, at any time during the probationary period, Herring ceases to reside in the state of Missouri, or ceases to maintain his residential real estate appraiser certification current or active under the provisions of Chapter 339, RSMo, as amended, or fails to keep MREAC advised of his current places of residence and business, the time of such absence, unlicensed or inactive status, or unknown whereabouts shall not be deemed or taken to satisfy any part of the probationary period.

S. Unless otherwise specified by the MREAC, all reports, documentation, evaluations, notices, or other materials required to be submitted to the MREAC shall be forwarded to: Missouri Real Estate Appraisers Commission, P.O. Box 1335, Jefferson City, Missouri 65102.

T. Any failure by Herring to comply with any condition of discipline set forth herein constitutes a violation of this Order.

11. The terms of this Order are contractual, legally enforceable, and binding and not mere recitals. Except as otherwise contained herein, neither this Order 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 MREAC will maintain this Order as an open record of the MREAC as provided in Chapters 339, 610 and 620, RSMo.

SO ORDERED, THIS 17th day of September, 2008.

MISSOURI REAL ESTATE
APPRAISERS COMMISSION

Vanessa Beauchamp

Vanessa Beauchamp,
Executive Director
Missouri Real Estate Appraisers Commission