

**SETTLEMENT AGREEMENT**  
**BETWEEN**  
**MISSOURI REAL ESTATE APPRAISERS COMMISSION**  
**AND**  
**TAMRA CAPE**

Tamra Cape (Cape) and the Missouri Real Estate Appraisers Commission (MREAC) enter into this Settlement Agreement for the purpose of resolving the question of whether Cape's certification as a state-certified residential real estate appraiser, no. 2007012825, will be subject to discipline. Pursuant to § 536.060, RSMo 2000,<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 MREAC under § 621.110, RSMo Cum. Supp. 2011. The MREAC and Cape jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo Cum. Supp. 2011.

Cape acknowledges that she understands the various rights and privileges afforded her by law, including the right to a hearing of the charges against her; 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 her at the hearing; the right to present evidence on her 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 her; the

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<sup>1</sup> All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted.

right to a ruling on questions of law by the Administrative Hearing Commission; the right to a disciplinary hearing before the MREAC at which time Cape 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 MREAC.

Being aware of these rights provided to her by law, Cape 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 her.

Cape acknowledges that she has received a copy of documents that were the basis upon which the MREAC determined there was cause for discipline, along with citations to law and/or regulations the MREAC believes were violated. Cape stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREAC that Cape's certification as a residential real estate appraiser, license no. 2007012825, is subject to disciplinary action by the MREAC in accordance with the relevant provisions of Chapters 621 and 339, RSMo, as amended.

The parties stipulate and agree that the disciplinary order agreed to by the MREAC and Cape in Part II herein is based only on the agreement set out in Part I herein. Cape understands that the MREAC may take further disciplinary action against her based on facts or conduct not specifically mentioned in this document that are either now known to the MREAC or that may be later discovered.

**I.**  
**Joint Stipulation of Facts and Conclusions of Law**

Based upon the foregoing, the MREAC and Cape herein jointly stipulate to the following:

1. Tamra Cape is certified by the MREAC as a state-certified residential real estate appraiser, license no. 2007012825. Cape's certification was at all times herein current and active.

2. On April 9, 2009, Cape signed a summary appraisal report for a residential real property located at 1627 West Springfield Road, St. James, Missouri, 65559, prepared for Equitable Mortgage Corporation (Equitable Report) estimating the value of the property at \$205,000.

3. On April 20, 2009, Cape signed another summary appraisal report for the same residential real property at 1627 West Springfield Road, St. James, Missouri, 65559, prepared for Rolla Federal Credit Union (Rolla Report) estimating the value of the property at \$230,000.

4. Both appraisal reports had an effective date of March 30, 2009.

5. Section 339.535, RSMo, states:

State certified residential real estate appraisers and state licensed residential real estate appraisers shall comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation.

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6. The preparation of the Equitable Report Appraisal and Rolla Report Appraisal were required to be prepared in compliance with the Uniform Standards of Professional Appraisal Practice, (“USPAP”), 2008-2011 Edition.

7. Based on the following errors and omissions in the preparation of the Equitable Report and Rolla Report, Cape is in violation of § 339.535, RSMo; the USPAP Ethics Rule; the USPAP Competency Rule; the USPAP Scope of Work Rule; USPAP Standards 1 and 2; and USPAP Standards Rules 1-1(a) and (c), 1-2(e)(iv) and (h), 1-3(b), 1-4(a), and (b)(i) and (iii), 1-6(a) and (b), and 2-2(b)(vii), and (viii):

- i. Cape presented inconsistent adjustments that differed between the two reports with the same effective date.
- ii. In the Equitable Report, the comparable sales presented were primarily from Rolla, Missouri, a much larger market than the subject location of St. James, Missouri, located eight miles away, but no location adjustment was made or evaluated. Only one comparable sale was offered from St. James.
- iii. The reports use of “reproduction” costs, which is contradicted by the use of “replacement” costs in the Cost Approach. The two approaches are different and concern the use of different data.
- iv. Cape did not indicate how she verified the comparable sale square footage information given to her by local realtors.

- v. Cape failed to offer any discussion or reconciliation of the data available toward the quality or quantity of the comparables and the effect of such on the valuation of the property.
- vi. Cape failed to reconcile the applicability or suitability of the different approaches used to determine value.
- vii. Cape failed to explain why her opinion of value increased in the Rolla Report in eleven days, without physically inspecting the property, and/or failing to detail it as a new assignment for a new client.
- viii. Cape failed to explain why two lower-priced comparable sales (including one from St. James) were dropped in favor of a higher-priced comparable sale from Rolla, Missouri.
- ix. Cape issued the Equitable Report without completing adequate research and analysis due to time pressure from the client.

7. Cape's conduct as stated above provides cause to discipline her license pursuant to § 339.532.2(5), (6), (7), (8), (9), (10), and (14) which state:

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 her certificate or license for any one or any combination of the following causes:

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- (5) Incompetency, misconduct, gross negligence, dishonesty, fraud, or misrepresentation in the performance of the functions or duties of any profession licensed or regulated by sections 339.500 to 339.549;
- (6) Violation of any of the standards for the development or communication of real estate appraisals as provided in or pursuant to sections 339.500 to 339.549;
- (7) Failure to comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation;
- (8) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;
- (9) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;
- (10) Violating, assisting or enabling any person to willfully disregard any of the provisions of sections 339.500 to 339.549 or the regulations of the commission for the administration and enforcement of the provisions of sections 339.500 to 339.549[.]

.....

- (14) Violation of any professional trust or confidence;

**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 MREAC in this matter under the authority of § 536.060, RSMo, and §§ 621.045.3 and 621.110, RSMo Cum. Supp. 2011.

1. **Cape's Certification is Placed on Two (2) Years of Probation.** Cape's certification as a residential real estate appraiser is hereby placed on PROBATION for a

period of TWO YEARS. The period of probation shall constitute the “disciplinary period.” During the period of probation, Cape shall be entitled to practice as a state-certified residential real estate appraiser under §§ 339.500 through 339.549, RSMo, provided Cape adheres to all the terms of this Settlement Agreement.

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

A. Cape shall submit written reports to the MREAC by no later than April 1 and October 1, during each year of the disciplinary period stating truthfully whether there has been compliance with all terms and conditions of this Settlement Agreement. The first written report shall be submitted on or before April 1, 2014. The final written report shall be submitted to the MREAC 90 days prior to the end of the disciplinary period. Each written report shall be submitted no earlier than 30 days prior to the respective due date. Cape is responsible for assuring that the reports are submitted to and received by the MREAC.

B. During the disciplinary period, Cape shall maintain a log of all appraisal assignments as required by 20 CSR 2245-2.050. A true and accurate copy of the log shall be submitted to the MREAC by no later than April 1 and October 1 during each year of the disciplinary period. The first log shall be submitted on or before April, 2014. The last log shall be submitted to the MREAC 90 days prior to the end of the disciplinary period. Each log submitted shall be

current to at least 30 days prior to the respective due date. Cape is responsible for assuring that the logs are submitted to and received by the MREAC. Upon MREAC request, Cape shall submit copies of her work samples for MREAC review.

C. Within six months after the effective date of this Settlement Agreement, Cape shall submit verification to the MREAC of successful completion of the fifteen-hour approved National USPAP course, including examination. This course will not replace the 7-hour National USPAP course required by the general continuing education requirements.

D. Cape may not apply the education required by this Settlement Agreement to satisfy the continuing education hours required for certification renewal.

E. During the period of probation, Cape shall not sign appraisal reports as a supervising appraiser.

F. During the disciplinary period, Cape shall not serve as a supervising appraiser to trainee residential real estate appraisers under 20 CSR 2245-3.005. Within ten days of the effective date of this Settlement Agreement, Cape shall advise each trainee residential real estate appraiser working under her that the supervisory relationship is terminated and comply with all other requirements of 20 CSR 2245-3.005 regarding the termination of the supervisory relationship.

G. During the disciplinary period, Cape shall keep the MREAC apprised at all times in writing of her current work and home addresses and telephone numbers at each place of residence and employment. Cape shall notify the MREAC in writing of any change in address or telephone number within 15 days of a change in this information.

H. Cape shall timely renew her certification and timely pay all fees required for certification renewal and comply with all other MREAC requirements necessary to maintain her certification in a current and active state.

I. During the disciplinary period, Cape shall comply with all provisions of §§ 339.500 through 339.549, RSMo, all rules and regulations promulgated thereunder, and all federal and state laws. "State" includes the state of Missouri and all other states and territories of the United States. Any cause to discipline Cape's certification as a residential real estate appraiser under § 339.532.2, RSMo, as amended, that accrues during the disciplinary period shall also constitute a violation of this Settlement Agreement.

J. Cape shall accept and comply with reasonable unannounced visits from the MREAC's duly authorized agents to monitor compliance with the terms and conditions stated herein.

K. Cape shall appear before the MREAC or its representative for a personal interview upon the MREAC's written request.

L. If, at any time within the disciplinary period, Cape removes herself from the state of Missouri, ceases to be currently certified under the provisions of §§ 339.500 through 339.549, RSMo, or fails to keep the MREAC advised of all current places of residence and business, the time of absence, uncertified status or unknown whereabouts shall not be deemed or taken as any part of the disciplinary period.

3. Upon the expiration of the disciplinary period, the certification of Cape shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the MREAC determines that Cape has violated any term or condition of this Settlement Agreement, the MREAC may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke or otherwise lawfully discipline Cape's certification.

4. No additional discipline shall be imposed by the MREAC pursuant to the preceding paragraph of this Settlement Agreement without notice and opportunity for hearing before the MREAC as a contested case in accordance with the provisions of Chapter 536, RSMo.

5. This Settlement Agreement does not bind the MREAC or restrict the remedies available to it concerning any future violations by Cape of §§ 339.500 through 339.549, 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 MREAC 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 MREAC or may be discovered.

7. If any alleged violation of this Settlement Agreement occurred during the disciplinary period, the parties agree that the MREAC 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. Cape agrees and stipulates that the MREAC 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 MREAC will maintain this Settlement Agreement as an open record of the MREAC as required by Chapters 339, 610, and 324, RSMo, as amended.

11. Cape, together with her partners, heirs, assigns, agents, employees, representatives and attorneys, does hereby waive, release, acquit and forever discharge the MREAC, 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. This Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREAC.

13. MREAC shall dismiss the currently pending disciplinary case against Cape within 15 days of the effective date of this Settlement Agreement.

