

SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE COMMISSION
AND
BROKERS GROUP REALTY, LLC

Brokers Group Realty, LLC (Brokers Group) and the Missouri Real Estate Commission (MREC) enter into this Settlement Agreement for the purpose of resolving the question of whether Brokers Group's license as a Real Estate Association, no. 2009005962, 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. 2012. The MREC and Brokers Group jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo Supp. 2012.

Brokers Group acknowledges that it understands the various rights and privileges afforded it by law, including the right to a hearing of the charges against it; 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 it at the hearing; the right to present evidence on its behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial

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

administrative hearing commissioner concerning the charges pending against it; 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 Brokers Group 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 it by law, Brokers Group 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 it.

Brokers Group acknowledges that it 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. Brokers Group stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREC that Brokers Group's license as a Real Estate Association, license no. 2009005962, 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 Brokers Group in Part II herein is based only on the agreement set out in Part I herein. Brokers Group understands that the MREC may take further disciplinary action

against it based on separate and unrelated facts or conduct not 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 Brokers Group herein jointly stipulate to the following:

1. The MREC is an agency of the State of Missouri created and existing pursuant to §339.120, RSMo Supp. 2012, for the purpose of executing and enforcing the provisions of §§ 339.010 to 339.180 and §§ 339.710 to 339.860, RSMo (as amended), relating to real estate salespersons and brokers.

2. Brokers Group is licensed by the MREC as a Real Estate Association, license no. 2009005962. Broker Group's license was current and active at all times relevant herein.

3. Brokers Group has employed James R. Webb (Webb) as a real estate sales person from June 26, 2009 until the present. Through this employment relationship, Brokers Group assisted and enabled Webb to engage in the practice of real estate.

4. Webb is licensed by the MREC as a real estate salesperson, license no. 2006027344. Webb's real estate license was current and active until it expired on September 30, 2010. Webb renewed his license on March 19, 2012.

5. While his license was expired, Webb engaged in the practice of real estate from October 1, 2010 until March 19, 2012.

6. While his license was expired, Webb participated in the closings of at least six properties, including but not limited to:

- A. Lot # 61, Terrell Creek Blvd., Republic, MO 65738, which closed on May 2, 2011;
- B. Lot #62, Terrell Creek Blvd., Republic, MO 65738, which closed on April 14, 2011;
- C. 458 Baldknobber Dr., Unit 44, Branson West, MO 65737, which closed on October 13, 2010;
- D. 101 North Cedar Drive, Blue Eye, MO 65611, which closed on January 23, 2012;
- E. 104 Field Stone Drive, Hollister, MO 65672, which closed on July 21, 2011; and
- F. 19 Par Lane, Building 36, Unit 4, Branson West, MO 65737, which closed on August 1, 2011.

7. While his license was expired, Webb listed multiple properties, including but not limited to:

- A. Lot 61, Terrell Creek Blvd., Republic, MO 65738 on July 13, 2010;

- B. 19 Par Lane, Building 36, Unit 4, Branson West, MO 65737 on April 22, 2011;
- C. 72 Mayberry Circle, Unit 14, Branson West, MO 67373 on May 13, 2011;
- D. 113 Canyon Forest Circle, Kimberling City, MO 65686 on September 8, 2011;
- E. 2461 St. Hwy 185, Branson, MO 65616 on March 2, 2011;
- F. Lots 1, 2, 3, 4, 5, 6, 11, 15, 16, 17, 18, 22, 23, 25, 27, 33, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, and 79 located at Terrell Creek Blvd., Republic, MO 65738 on April 8, 2011; and
- G. Tracks 3, 4, 5, 6, and 7 located at Terrell Creek Blvd., Republic, MO 65738 on April 8, 2011.

8. Brokers Group paid Webb commission for real estate activity that occurred while Webb's license was expired.

9. Webb may have engaged in other closings and listings for which Brokers Group compensated Webb. This agreement intends to include these other instances of permitting the unlicensed practice of real estate despite the lack of specific reference herein.

10. Brokers Group's conduct with respect to Webb's practice of real estate is a violation of § 339.150.1 and .2, RSMo Supp. 2012, which states in relevant part:

1. No real estate broker shall knowingly employ or engage any person to perform any service to the broker for which licensure as a real estate broker or a real estate salesperson is required pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860*, unless such a person is:

(1) A licensed real estate salesperson or a licensed real estate broker as required by section 339.020[.]

...

Any such action shall be unlawful as provided by section 339.100 and shall be grounds for investigation, complaint, proceedings and discipline as provided by section 339.100.

2. No real estate licensee shall pay any part of a fee, commission or other compensation received by the licensee to any person for any service rendered by such person to the licensee in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate, unless such a person is a licensed real estate salesperson regularly associated with such a broker, or a licensed real estate broker, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri.

11. Based on the business arrangement between Brokers Group and Webb, Brokers Group assisted and enabled Webb to practice real estate without a license in violation of § 339.180.1, RSMo Supp. 2012, which states in part:

1. It shall be unlawful for any person or entity not licensed under this chapter to perform any act for which a real estate license is required[.]

12. Based on the business arrangement between Brokers Group and Webb, Brokers Group assisted and enabled Webb to practice real estate without a license in violation of § 339.200.1, RSMo Supp. 2012, which states in part:

It shall be unlawful for any person not holding the required license from the commission to perform any act for which a license is required by sections 339.010 to 339.189 and sections 339.710 to 339.860[.]

13. Based on Brokers Group's conduct as stipulated to herein, cause exists to discipline Brokers Group's license pursuant to § 339.100.2(7), (15), (16), (19), and (23), RSMo Supp. 2012, which states:

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:

.....

(7) Paying a commission or valuable consideration to any person for acts or services performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860*;

.....

(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*;

.....

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

.....

(23) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860* who is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections 339.710 to 339.860*.[.]

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. 2012.

1. Brokers Group agrees to pay a civil penalty of \$500. Said penalty is authorized under § 339.205, RSMo Supp. 2012:

a. Brokers Group 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. Brokers Group 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. Supp. 2012.

c. In the event the MREC determines that Brokers Group 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 § 339.205.4, RSMo Supp. 2012; (2) after an evidentiary hearing, vacate and set aside the penalty imposed herein and may probate, suspend, revoke, or otherwise lawfully discipline Brokers Group’s license under § 324.042, RSMo. Supp. 2012; and (3) deny, discipline, or refuse to renew or reinstate Broker Group’s license under § 339.205.7, RSMo Supp. 2012.

14. 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.

15. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future unrelated violations by Brokers Group of Chapter 339, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

16. Subject to paragraph 9 above, 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.

17. 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. Brokers Group agrees and stipulates that the MREC has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

18. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

19. 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.

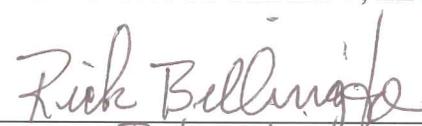
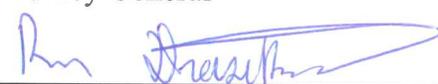
20. The parties to this Settlement Agreement understand that the MREC will maintain this Settlement Agreement as an open record of the MREC as required by Chapters 324, 339, and 610, RSMo, as amended.

21. Brokers Group, together with its 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.

22. Brokers Group understands that it 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 Brokers Group's license. If Brokers Group

desires the Administrative Hearing Commission to review this Settlement Agreement, Brokers Group may submit its request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65102.

23. If Brokers Group 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 Brokers Group'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 Brokers Group as allowed by law. If Brokers Group 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.

<p>LICENSEE</p> <p>BROKERS GROUP REALTY, LLC</p> <p>By: <u></u></p> <p>Name <u>Rick Billington</u> Date <u>3-6-14</u></p> <p>Title: <u>Broker-owner</u></p>	<p>MISSOURI REAL ESTATE COMMISSION</p> <p><u></u></p> <p>Janet Carder, Executive Director</p> <p>Date: <u>March 13, 2014</u></p>
<p><u></u></p> <p>Karl Finkenbinder Finkenbinder Law Firm, LLC</p>	<p>CHRIS KOSTER Attorney General</p> <p><u></u></p> <p>Ron Dreisilker Assistant Attorney General</p>

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