BEFORE THE
MISSOURI REAL ESTATE COMMISSION

In the matter of the application of	)
	)
AMBER DECARLO,	)
	)
Applicant.	)

ORDER OF THE MISSOURI REAL ESTATE COMMISSION REGARDING ISSUANCE OF A PROBATED REAL ESTATE SALESPERSON LICENSE TO AMBER DECARLO

The Missouri Real Estate Commission ("MREC") hereby issues its ORDER granting a PROBATED real estate salesperson license to Amber Decarlo ("Applicant") pursuant to the provisions of § 324.038, RSMo.[1] As set forth in § 324.038, RSMo, Applicant may submit a written request for a hearing to the Administrative Hearing Commission seeking review of the MREC's decision to issue a probated real estate salesperson license. Such written request must be filed with the Administrative Hearing Commission within 30 days of the date of delivery or mailing by certified mail of this Order. The written request should be addressed to the Administrative Hearing Commission, United States Post Office Building, 131 W. High Street, P.O. Box 1557, Jefferson City, Missouri 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 MREC's decision shall be considered waived.

1 All statutory references are to the Revised Statutes of Missouri, as amended, unless otherwise specified.

I

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. Applicant is a natural person residing at the address of 2486 Bonniebrook Drive, Maryland Heights, Missouri 63043.

3. On or about July 25, 2019, the MREC received Applicant's application for a real estate salesperson license ("Application").

4. An investigation was initiated by the MREC in response to Applicant's criminal history indicating she had felony convictions in Missouri Circuit Courts.

5. On Applicant's application, question 4-13, Applicant 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." Applicant responded, "YES" to question 4-13.

6. A review of Applicant's Missouri criminal history revealed that Applicant (formerly known as Amber Thompson) has multiple criminal convictions/guilty pleadings.

7. On or about March 6, 2007, in Case No. 06BB-CR00565, Applicant pleaded guilty in the Circuit Court of Warren County, Missouri, to the class B misdemeanor charge of *Driving While Intoxicated.* The Court suspended imposition of Applicant's sentence and Applicant was placed on two (2) years' probation. Applicant's probation was suspended twice and revoked twice before she successfully completed her probation on June 16, 2010.

8. On or about June 4, 2009, in Case No. 09L6-CR00051, Applicant pleaded guilty in the Circuit Court of Lincoln County, Missouri, to the class A misdemeanor charge of *Driving While Intoxicated, Prior Offender.* The Court sentenced Applicant to 120 days' jail incarceration, but suspended Applicant's sentence and placed Applicant on two (2) years' probation and six (6) days' shock incarceration to run concurrently with her Warren County conviction. Applicant was also ordered to complete 48 hours of community service and pay a $50.00 fine.

9. On or about October 21, 2013, in Case No. 1211-CR01126-01, Applicant pleaded guilty in the Circuit Court of St. Charles County, Missouri, to the class B felony charges of *Distribute/Deliver/Manufacture/Produce or Attempt To Or Possess With Intent to Distribute/Deliver/Manufacture/Produce a Controlled Substance* (2 counts) and the class C felony of *Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana.* The Court suspended imposition of Applicant's sentence and Applicant was placed on five (5) years' probation on each count. The Court revoked the SIS on May 18, 2015, and Applicant was sentenced to ten (10) years' incarceration with the Missouri Department of Corrections on each class B felony charge and Applicant was sentenced to five (5) years'

incarceration on the class C felony charge. Applicant was ordered to be incarceration in 120-day treatment program. Applicant's SIS had been revoked due to her guilty plea in May 2015, in St. Charles County Circuit Court case number 1511-CR00974-01. On August 21, 2015, Applicant's probation was amended and she received a suspended execution of sentence on Counts I, II, and III and was placed on five (5) years' supervised probation.

10. On or about May 19, 2015, in Case No. 1511-CR00974-01, Applicant pleaded guilty in the Circuit Court of St. Charles County, Missouri, to three class D felonies charges of *Driving While Intoxicated, Persistent Offender* and the unclassified misdemeanor counts of *Driving While Intoxicated and Driving While Revoked or Suspended, 1st Offense*. The Court sentenced Applicant to four (4) years' incarceration with the Missouri Department of Corrections, sentence to run concurrently with the sentence in case number 1211-CR01126-01. The Court suspended execution of Applicant's sentence and Applicant was ordered to serve 120 days' shock incarceration in the Missouri Department of Corrections treatment facility. Applicant was ordered into an Alternate Court Program (drug court) and ordered to attend a Substance Abuse Traffic Offender Program (SATOP) and a Victims' Impact Panel (VIP). Applicant was also ordered to submit to chemical tests when requested and has ignition interlock with camera and GPS installed on any vehicle she was driving. Applicant was also ordered to perform 480 hours of community service.

11. Applicant's criminal convictions are offenses of which an essential element is misconduct, or gross negligence; and the commission of this crime demonstrates a lack of regard for the health, safety, and welfare of the public.

12. Applicant's criminal convictions are offenses reasonably related to the qualifications, functions, and duties of a real estate salesperson.

II

CONCLUSIONS OF LAW

13. As a result of the criminal conduct and discipline identified in Section I herein, cause exists for the MREC to deny Applicant'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, ..."

14. As a result of the criminal conduct, identified in Section I herein, cause exists for the MREC to deny Applicant's application for a real estate salesperson license pursuant to the provisions of § 339.100.2 (18) and (19), 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:
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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;
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> (19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence[.]

15. 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.

16. As a result of the criminal conduct identified in Section I herein, Applicant has engaged in conduct and has pleaded guilty to crimes that adversely affect Applicant's moral character, Applicant's reputation, and Applicant's fitness and qualifications to practice as a real estate salesperson.

17. 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.

18. The MREC issues this Order in lieu of denial of Applicant'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

19. Based on the foregoing, the Missouri real estate salesperson license issued to Applicant is subject to the following terms and conditions.

20. **Applicant Amber Decarlo's license is on probation for two (2) years.** Applicant's real estate salesperson license is hereby placed on **PROBATION** for a period of **TWO (2) YEARS** from the effective date of this Order. During the period of probation on Applicant's real estate salesperson license, Applicant shall be entitled to practice as a real estate salesperson provided Applicant adhere to all the terms stated herein. The period of probation shall constitute the "disciplinary period."

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

A. Applicant shall obey and comply with the terms and conditions of probation for Applicant's criminal supervision.

B. Applicant shall prepare and submit quarterly written reports to the MREC regarding the status of and compliance with Applicant's criminal probation, parole, and/or release,

as well as the terms and conditions of this Probated License Order. Applicant 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. Applicant shall submit the first such report so that the MREC receives it on or before January 10, 2020.

C. If at any time during the disciplinary period Applicant wishes to transfer Applicant's license affiliation to a new broker/brokerage, Applicant 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 Applicant's license. Applicant must obtain the Broker Acknowledgement form from the MREC and must obtain the MREC's written approval before any transfer request can be processed.

D. Applicant shall keep the MREC apprised at all times in writing of Applicant's current regular mail address, email address (if any), and telephone number at each place of residence and business. Applicant shall notify the MREC in writing within ten days of any change in this information.

E. Applicant shall timely renew Applicant's Missouri real estate salesperson license, timely pay all fees required for license renewal, and comply with all other requirements necessary to maintain Applicant's license in a current and active state. During the disciplinary period, Applicant shall not place her license on inactive status as would otherwise be allowed under 20 CSR 2250-4.050. Alternatively, without violating the terms and conditions of this Probated License Order, Applicant may

surrender her real estate license by submitting a Surrender of Licensure Rights form to the MREC. Applicant must obtain the Surrender of Licensure Rights form from the MREC. If Applicant applies for a real estate license after surrender, Applicant 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 Probated License Order.

F. Applicant 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.

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

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

I. Applicant 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.

J. Applicant shall report, in writing, to the MREC each occurrence of Applicant's being finally adjudicated and found guilty, or entering a plea of guilty or nolo contendere,

in a state or federal criminal prosecution, to felony or misdemeanor offenses, within ten business days of each such occurrence.

K. Once licensed, the Applicant cannot change the status of a license, transfer her license, or apply for any new or additional licenses during the disciplinary period without the prior written consent of the commission.

L. During the first year of the probationary period, Applicant shall be prohibited from operating a motor vehicle at all times when it is occupied by clients and/or customers as passengers in the vehicle.

22. Upon the expiration and successful completion of the disciplinary period, Applicant'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 Licensee 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 Applicant's real estate salesperson license.

23. 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.

24. If the MREC determines that Applicant 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.

25. 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.

26. 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 30TH DAY OF OCTOBER 2019.

Terry W. Moore, Executive Director
Missouri Real Estate Commission