BEFORE THE
MISSOURI REAL ESTATE COMMISSION

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| In the matter of the application of | ) |
| | ) |
| **KATHRYN DEVRY,** | ) |
| | ) |
| Applicant. | ) |

**ORDER OF THE MISSOURI REAL ESTATE COMMISSION REGARDING ISSUANCE OF A PROBATED REAL ESTATE SALESPERSON LICENSE TO KATHRYN DEVRY**

The Missouri Real Estate Commission ("MREC") hereby issues its ORDER granting a PROBATED real estate salesperson license to Kathryn Devry ("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.

I

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

## 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 416 Camelot Drive, Liberty, Missouri 64068.

3. On or about December 13, 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 and misdemeanor drug convictions in the Saline County Kansas.

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 criminal history revealed that on or about December 13, 2016, Applicant pleaded guilty to the felony charge of *Possession With Intent to Distribute a Controlled Substance*, and the misdemeanor charge of *Possession of Drug Paraphernalia*, in the District Court of Saline County, Kansas, Case Number 2016-CR000858. The Court sentenced Applicant

to 49 months incarceration with the Kansas Department of Corrections. The Court suspended execution of Applicant's sentence and placed Applicant on 36 months of probation.

7. Applicant's criminal conviction is for an offense 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.

8. Applicant's criminal conviction is for an offense reasonably related to the qualifications, functions, and duties of a real estate salesperson.

II

## CONCLUSIONS OF LAW

9. 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, . . . ."

10. 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[.]

11. 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.

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

13. 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.

14. 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

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

16. **Applicant Kathryn Devry'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 adheres to all the terms stated herein. The period of probation shall constitute the "disciplinary period."

17. **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 July 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 his 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 his 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 his license, or apply for any new or additional licenses during the disciplinary period without the prior written consent of the Commission.

L. Licensee must obey and comply with the terms and conditions of his criminal probation/ parole and report to the MREC within ten days of the conviction, disposition, or final adjudication of any violations thereof, including (but not limited to) failure to take or pass a drug screening sample result, failure to report to probation/parole officer as scheduled, pled guilty to or found guilty of another criminal offense, revocation of probation/parole, etc.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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 23rd DAY OF MARCH, 2020.

Terry W. Moore, Executive Director
Missouri Real Estate Commission