

SETTLEMENT AGREEMENT BETWEEN
MISSOURI REAL ESTATE COMMISSION AND
CHRISTOPHER L. GRATEKE, III

Christopher L. Grateke, III (“Grateke”) and the Missouri Real Estate Commission (“Commission”) enter into this settlement agreement to resolve the question of whether Grateke’s license as a real estate broker salesperson will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri (“AHC”) regarding cause to discipline the Licensee’s license, and, additionally, the right to a disciplinary hearing before the Commission under § 621.110, RSMo.

Grateke acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to present evidence on his own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against him and, subsequently, the right to a disciplinary hearing before the Commission at which time he may present evidence in mitigation of discipline; and the right to recover attorney’s fees incurred in defending this action against his license. Being aware of these rights provided him by operation of law, Grateke knowingly and voluntarily waives each 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 him.

For the purpose of settling this dispute, Grateke stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Commission that his license, numbered

¹ All statutory references are to Missouri Revised Statutes 2016, as amended, unless otherwise indicated.

2007011398, is subject to disciplinary action by the Commission in accordance with the provisions of Chapter 621 and §§ 339.010-339.205 and 339.710-339.855, RSMo.

Joint Stipulation of Fact and Conclusions of Law

1. The Commission is an agency of the state of Missouri created and established pursuant to § 339.120, RSMo, to license and regulate all persons practicing as a real estate brokerage, broker, or salesperson in this state. The Commission has control and supervision of the licensed occupations and enforcement of the terms and provisions of Sections 339.010-339.205 and 339.710-339.855, RSMo.

2. Advantage Rental Properties, LLC (Advantage), held a real estate association license from the Commission, license number 2011007699. The Commission issued Advantage's license on March 1, 2011 and it expired June 30, 2018. Advantage's license was current and active at all relevant times prior to its expiration. Grateke was the designated broker for Advantage. As the designated broker, Grateke is equally responsible for each of Advantage's violations. Advantage terminated its registration with the Secretary of State effective September 12, 2018.

3. Licensee, Christopher L. Grateke, III, holds a broker salesperson license from the Commission, license number 2007011398. Relevant to the facts set forth herein, Grateke held a real estate broker associate license while serving as the designated broker for Advantage under the same license number. The Commission issued Grateke's broker associate license on March 1, 2011. Grateke's license was current and active at all relevant times herein.

4. On January 19, 20, 26 and February 17, 21 and 23, 2017, the Commission conducted an audit of Advantage and Grateke. The Commission's audit revealed the facts and violations set forth herein.

5. Advantage maintained the following three bank accounts in which the funds of others were deposited:

- a. USAA Federal Savings Bank, account number ending 2644, dedicated to one client ("Account 2644);
- b. Central Bank Account, account number ending 5460 (the "Property Management Account"); and
- c. Central Bank Account, account number ending 5657 (the "Security Deposit Account")

6. Advantage did not report to the MREC that it had established and was using Account 2644 and the Security Deposit, in violation of § 339.105.2.

7. Advantage did not provide the required consent to examination and audit form to the MREC for Account 2644 and the Security Deposit Account, in violation of 20 CSR 2250-8.220(7).

8. Based on Advantage's violations of § 339.105.2 and 20 CSR 2250-8.220(7), cause exists to discipline Grateke's real estate license under § 339.100.2(15).

9. Advantage withdrew cash as follows, without referencing on the withdrawal slip the related transaction, thus making tracing its proper application and/or reimbursement impossible, in violation of § 339.105.3 and/or 20 CSR 2250-8.220(8).

- a. \$365 in cash from the Property Management Account on December 13, 2016;
- b. \$2,065 in cash from the Security Deposit Account on July 16, 2016;
- c. \$1,000 in cash from the Security Deposit Account on July 16, 2016;

10. If the payment of such amounts were for amounts due and owing to the broker, then Grateke violated 20 CSR 2250-8.220(8) because it was not made payable to Advantage or Grateke, or the firm's general operating account.

11. Advantage failed to identify the related transaction on numerous deposit slips for the Property Management Account and the Security Deposit Account, in violation of § 339.105.3 and/or 20 CSR 2250-8.220(8).

12. Advantage wrote checks from its Security Deposit Account to reimburse security deposits that Grateke owed to tenants of his personally owned rental properties, thus failing to maintain the funds of Advantage's clients in a separate bank account, in violation of § 339.105.1 and/or 20 CSR 2250-8.220(1):

- a. Check No. 2033, dated May 11, 2016, for \$557.08; and
- b. Check No. 2034, dated May 1, 2016, for \$650.

13. On February 1, 2016, Advantage incurred overdraft fees totaling \$105 in the Property Management Account, which the bank refunded on March 1, 2016. Between March 25 to March 29, 2016, Advantage incurred three additional overdraft fees totaling \$105 in the Property Management Account of which only \$35 the bank refunded.

14. Based on the overdraft fees, Advantage violated § 339.105.1 and 20 CSR 2250-8.220(1), (1) by failing to maintain clients funds in the account, (2) by failing to ensure the account balance for that owner's property was sufficient to cover the disbursements, and (3) by failing to maintain sufficient broker funds in the account to cover the bank fees.

15. On or about August 16, 2016, Advantage paid \$151.92 to a vendor from the Property Management Account for services provided on property located at 5107 Deer Ridge Road that were not expensed to the client, thus resulting in an overpayment to the client.

16. On or about March 30, 2016, Advantage received a \$25 late fee on 5107 Deer Ridge, No. 7, but did not deposit it into the Property Management Account or transfer it to the owner.

17. Advantage paid prepaid rents of \$500 received in February 2016 to the owner that per the management agreement were to be held by the broker, resulting in a \$500 shortage in the Property Management Account.

18. Advantage had an overage in the Property Management Account of 50 cents due to an error in the August 2016 Owner's Statement charging \$480.50 to the owner for an expense paid to a vendor for painting and cleaning, instead of the \$480 that was actually paid.

19. Advantage had an overage in the Property Management Account of \$5.08 due to an error in the May 2016 Owner's Statement for 5107 Deer Ridge Road charging \$65.17 for water when only \$60.09 was actually paid.

20. The numerous errors resulting in overages and shortages in the escrow accounts constitute a violation of § 339.730.1(1) and (2), which state:

1. A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations:

(1) To perform the terms of the written agreement made with the client;

(2) To exercise reasonable skill and care for the client[.]

21. Based on Advantage's conduct and/or violations related to the numerous errors resulting in overages and shortages, cause exists to discipline Grateke's real estate license under § 339.100.2(1), (3), and/or (15).

22. During the Audit Period, Advantage managed real property located at 1111 W. High Street, Jefferson City, Missouri, and at 1411 S. Country Club Drive for compensation without a current written management agreement.

23. Grateke's and Advantage's property management without written management agreements violated § 339.780.2, which states:

2. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to establish a limited agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 339.730 and

the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker.

24. Grateke's and Advantage's property management without written management agreements violated 20 CSR 2250-8.200(1), which states:

(1) When managing property a licensee shall not rent or lease, offer to rent or lease, negotiate, or offer or agree to negotiate, the rent or lease, list or offer to list for lease or rent, assist or direct in procuring of prospects calculated to result in the lease or rent, assist or direct in the negotiation of any transaction calculated or intended to result in the lease or rent, or show that property to prospective renters or lessees unless the licensee's broker holds a current written property management agreement or other written authorization signed by the owner of the real estate or the owner's authorized agent.

25. Based on the violations of § 339.780.2 and 20 CSR 2250-8.200(1), cause exists to discipline Grateke's real estate license under § 339.100.2(15).

Joint Agreed Disciplinary Order

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Commission in this matter under the authority of §§ 536.060, 621.045.4 and 621.110, RSMo.

26. **Probation.** Licensee's license is placed on three (3) years' probation. During the period of **probation** on his license, Licensee shall be entitled to practice as a real estate broker salesperson provided he adheres to all the terms stated herein. The period of probation shall constitute the "disciplinary period."

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

- a. Licensee shall not engage in property management for others.
- b. Licensee shall keep the MREC apprised at all times in writing of his current addresses and telephone numbers at each place of residence and business. Licensee shall notify the MREC in writing within ten days of any change in this information.

c. Licensee shall timely renew Licensee's license, timely pay all fees required for license renewal, and comply with all other requirements necessary to maintain his license in a current and active state. During the disciplinary period, Licensee 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 Settlement Agreement, Licensee may surrender his real estate license by submitting a completed Surrender of Licensure Rights and Privileges form to the MREC along with the original license and any duplicate copies issued to Licensee. The Surrender of Licensure Rights and Privileges form may be obtained from the MREC. If Licensee applies for a real estate license after surrender, Licensee shall be required to requalify as if original applicants. Licensee would have to apply as an original applicant for a salesperson license. The MREC may base its decision, wholly or partially, on the findings of fact, conclusions of law, and discipline set forth in this Settlement Agreement.

d. Licensee 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.

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

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

g. Licensee 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.

h. Licensee shall report to the MREC each occurrence of Licensee'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.

i. During the disciplinary period, Licensee cannot transfer his license to another entity or obtain any additional licenses without the prior written consent of the Missouri Real Estate Commission.

28. This Agreement does not bind the Commission or restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Agreement that are either now known to the Commission or may be discovered.

29. This Agreement does not bind the Commission or restrict the remedies available to it concerning any future violations by Licensee of Chapter 339, RSMo, as amended, or the regulations promulgated thereunder, or of the terms of this Agreement.

30. All parties agree to pay all their own fees and expenses incurred as a result of this case, its settlement, or any litigation.

31. The parties to this Agreement understand that the Missouri Real Estate Commission will maintain this Agreement as an open record of the Commission as provided in Chapters 339, 610 and 324, RSMo.

32. The terms of this settlement agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided 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.

33. Licensee, together with Licensee's heirs and assigns, and Licensee's attorneys, do hereby waive, release, acquit and forever discharge the Commission, its respective members and any of its employees, agents, or attorneys, including any former Commission members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement agreement or any portion thereof to be void or unenforceable.

34. Electronic Signatures. Each party agrees that the electronic signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic Signature means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures pursuant to the Missouri Uniform Electronic Transactions Act (§ 432.200 et seq., RSMo) as amended from time to time.

35. This agreement shall become effective upon the signature of the Commission's Executive Director.

LICENSEE


Christopher L. Grateke, III

Date 6 May 2020

DODSON & WATERS LLC
Attorneys at Law


Ryan Patrick Waters
Missouri Bar No. 67174

315 Marshall Street
Jefferson City, Missouri 65101
Telephone: (573) 489-9592
Facsimile: (573) 636-9288
Email: rw@danieldodson.net

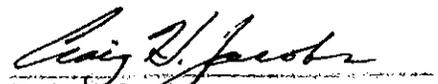
Attorneys for Christopher L. Grateke, III

MISSOURI REAL ESTATE
COMMISSION


Jerry W. Moore, Executive Director
Missouri Real Estate Commission

Date 05-14-2020

ERIC S. SCHMITT
Attorney General


Craig H. Jacobs
Assistant Attorney General
Missouri Bar No. 48358

Supreme Court Building
207 West High Street
P.O. Box 899
Jefferson City, MO 65102
Telephone: (573) 751-8769
Facsimile: (573) 751-5660
Email: craig.jacobs@ago.mo.gov

Attorneys for Missouri Real Estate
Commission