

SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE COMMISSION
AND
RICK R. HAWES

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MREC

Rick R. Hawes (Hawes) and the Missouri Real Estate Commission (MREC) enter into this Settlement Agreement for the purpose of resolving the question of whether Hawes's license as a broker salesperson, no. 1999077851, 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. 2011. The MREC and Hawes jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo Supp. 2011.

Hawes 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 proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing against him at the hearing; the right to present evidence on his 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 him; the

¹ 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 MREC at which time Hawes 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 him by law, Hawes 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 him.

Hawes acknowledges that he 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. Hawes stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREC that Hawes's license as a broker salesperson, license no. 1999077851, is subject to disciplinary action by the MREC in accordance with the relevant provisions of Chapter 621, RSMo, and §§ 339.010 through 339.205 and §§ 339.710 through 339.855, RSMo, as amended.

The parties stipulate and agree that the disciplinary order agreed to by the MREC and Hawes in Part II herein is based only on the agreement set out in Part I herein. Hawes understands that the MREC may take further disciplinary action against him based

on facts or conduct not specifically 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 Hawes herein jointly stipulate to the following:

1. Hawes holds a Missouri real estate broker salesperson license, No. 1999077851. Hawes's license is, and was at all relevant times, current and active until it was cancelled on October 17, 2011 when returned to the MREC by his broker and expired on June 30, 2012.

2. On October 10, 2011, Hawes pled guilty in the Benton County, Arkansas Circuit Court, Nineteenth Judicial Circuit, West, Division 1, ("the court"), Case No. 2010-669-2 ("criminal case"), to two class Class B felonies of Theft of Property, in violation of Arkansas Code ("A.C.A.") 2012 § 5-36-103.

3. The charges underlying the criminal case were as follows, in pertinent part:

Count #1

On or about December 20, 2006, in Benton County, Arkansas, [Hawes], with the purpose of depriving Good Shepherd Lutheran Church of the interest in its real property, made an unauthorized transfer of the interest in the real property owned by Good Shepherd Lutheran Church, in order to obtain a personal loan from United Bank[.]

Count #2

On or about various dates in 2007 and 2008, in Benton

County, Arkansas, [Hawes], without authorization, knowingly took over \$2,500 out of the bank account of Good Shepherd Lutheran Church, with the purpose of depriving Good Shepherd Lutheran Church of the money[.]

4. Section 5-36-103, regarding the criminal offense of Theft of Property, states

in relevant part:

(a) A person commits theft of property if he or she knowingly:

(1) Takes or exercises unauthorized control over or makes an unauthorized transfer of an interest in the property of another person with the purpose of depriving the owner of the property[.]

5. On November 12, 2011, for Count #1, the court sentenced Hawes to incarceration for 96 months with “boot camp recommendation” and for Count #21, the court suspended the imposition of a 120 months incarceration sentence. Hawes was also assessed a \$1,000 fine, court costs of \$150, various other fees and restitution of \$30,000.

6. Based on his guilty plea to two counts of Theft of Property which are reasonably related to the qualifications, functions and duties of a real estate broker, include dishonesty has an essential element, and involve moral turpitude, cause exists to discipline Hawes’s broker salesperson license pursuant to § 339.100.2(18), RSMo, Supp. 2011, 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:

.....

(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[.]

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. 2011.

1. **Hawes's license is revoked and all indicia of licensure shall be surrendered immediately.** Hawes's license as a broker salesperson is hereby REVOKED and ALL INDICIA of licensure SHALL BE SURRENDERED IMMEDIATELY upon this Settlement Agreement becoming effective.

2. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future violations by Hawes of §§ 339.010 through 339.205 and §§ 339.710 through 339.855, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

3. 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.

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

5. 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.

6. 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.

7. Hawes, together with his 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

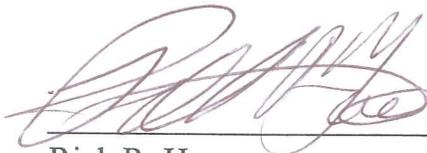
arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining 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.

8. Hawes understands that he 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 Hawes's license. If Hawes desires the Administrative Hearing Commission to review this Settlement Agreement, Hawes may submit his request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65102.

9. If Hawes 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 Hawes'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 Hawes as allowed by law. If Hawes does not request review by the

Administrative Hearing Commission, the Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREC.

LICENSEE


Rick R. Hawes

12-29-12
Date

MISSOURI REAL ESTATE
COMMISSION


Janet Carder, Executive Director
Date: 1-17-13

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