SETTLEMENT AGREEMENT BETWEEN
MISSOURI REAL ESTATE COMMISSION AND DAVID LEE MCKEEN

Come now David Lee McKeen ("Licensee") and the Missouri Real Estate Commission ("Commission") and enter into this Settlement Agreement for the purpose of resolving the question of whether McKeen's license as a real estate 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 Licensees' license, and, additionally, the right to a disciplinary hearing before the Commission under § 621.110, RSMo.

Licensee acknowledges that Licensee understands the various rights and privileges afforded Licensee by law, including the right to a hearing of the charges against Licensee; the right to appear and be represented by legal counsel; the right to have all charges against Licensee proven upon the record by a preponderance of the evidence; the right to cross-examine any witnesses appearing at the hearing against Licensee; the right to present evidence on Licensee's 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 Licensee and, subsequently, the right to a disciplinary hearing before the Commission at which time Licensee may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against Licensee's license. Being aware of these rights provided him by operation of law, Licensee 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 Licensee.

Licensee acknowledges that Licensee has received a copy of the documents relied upon by the Commission in determining there was cause to discipline Licensee's license, along with citations to law and/or regulations the Commission believes were violated.

For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the Commission that Licensee's license, numbered 1999124262 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.

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[1] All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

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, for the purpose of licensing all persons engaged in the practice as a real estate 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. Licensee, David Lee McKeen, holds a real estate salesperson license from the Commission, license number 1999124262. The Commission issued Licensee's license on April 27, 1998. Licensee's license expires September 30, 2020. Licensee's license was not current and active at relevant times as described below.

3. On July 15, 2018, the Commission mailed the 2018-2020 renewal to Licensee at her home address on file with the Commission. On September 12, 2018, the Commission mailed a second notice of the 2018-2020 renewal to Licensee at the home address on file with the Commission.

4. On March 29, 2019, the Commission received Licensee's 2018-2020 renewal form and his fee. The Commission renewed Licensee's license on March 29, 2019.

5. On April 9, 2019, the Commission sent Licensee a letter asking Licensee to respond to the Commission with any activity while Licensee's license was expired.

6. On April 29, 2019, the Commission received Licensee's response stating Licensee had "several real estate transactions and made $87,006.45 in commissions.

7. Licensee's license was expired for five months and 29 days.

8. Licensee's conduct, as described in paragraphs 3 through 7 above, providing real estate services without a properly current and valid license with Greater Metro Inc., constitutes cause to discipline Licensee's license.

9. Section 339.020, RSMo, states:

> It shall be unlawful for any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, foreign or domestic, to act as a real estate broker, real estate broker-salesperson, or real estate salesperson or to advertise or assume to act as such without a license first procured from the commission.

10. Regulation 20 CSR 2250-4.020(2) states, in relevant part:

...

> Until a new license is procured, the holder of an expired license shall not perform any act for which a license is required.

11. Cause exists for the Commission to take disciplinary action against Licensee's license under § 339.100.2(15), (19) and (23), RSMo, which states in pertinent part:

> 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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> ...
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> (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 any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860*;
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> ...
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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;
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> ...
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> (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 section 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*[.]

Joint Agreed Disciplinary Order

9. 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.

10. The terms of discipline shall include that **Licensee shall pay a civil penalty in the amount of $2,500.00 pursuant to § 339.100.3, RSMo.** The civil penalty shall be made by **CERTIFIED CHECK** payable to the "Missouri Real Estate Commission" and mailed to the Missouri Real Estate Commission, PO Box 1339, Jefferson City, MO 65102-1339. Said check must be postmarked or hand delivered within 60 days of the effective date of this Settlement Agreement. Funds received pursuant to this Order shall be handled in

accordance with Section 7 of Article IX of the Missouri Constitution and Section 339.205.8, RSMo. Respondent's failure to pay the full amount of the $2,500.00 civil penalty within sixty days of the effective date of this Order shall constitute a violation of this Order.

11. 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 not known to the Commission or may be discovered.

12. 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.

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

14. 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.

15. 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.

16. 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.

17. If no contested case has been filed against Licensee, Licensee has the right, either at the time the Settlement Agreement is signed by all parties or within fifteen days thereafter, to submit the Agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the Settlement Agreement constitute grounds for denying or disciplining the license of Licensee. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit this request to: **Administrative Hearing Commission, P.O. Box 1557, United States Post Office Building, 131 West High St, Jefferson City, MO 65102-1557**.

18. If Licensee has requested review, Licensee and Commission jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's license and issue findings of fact and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensee's license. Effective the date the Administrative Hearing Commission determines that the agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect. If the Administrative Hearing Commission issues an order stating that the Settlement Agreement does not set forth cause for discipline, then the Commission may proceed to seek discipline against Licensees as allowed by law. If the Licensee does not submit the Agreement to the Administrative Hearing Commission for determination, the Agreement shall become effective fifteen (15) days following the signature of the Commission's Executive Director.

LICENSEE

David Lee McKeen

David Lee McKeen

Date 8-5-19

COMMISSION

Terry W. Moore
Executive Director
Missouri Real Estate Commission

Date 08-09-19

Governor Michael L. Parson
State of Missouri

DIVISION OF PROFESSIONAL REGISTRATION

Department of Insurance
Financial Institutions
and Professional Registration
Chlora Lindley-Myers, Director

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800-735-2466 Voice Relay Missouri

Kathleen (Katie) Steele Danner
Division Director

http://www.pr.mo.gov

MISSOURI REAL ESTATE COMMISSION 15-DAY WAIVER ATTESTATION

I attest that I affirmatively waive my right to review of the attached Settlement Agreement by the Administrative Hearing Commission pursuant to section 621.045, RSMo.

I attest that I understand that the Settlement Agreement to become effective upon the date the Missouri Real Commission's Executive Director signs the Settlement Agreement.

DAVID LEE McKEEN
Printed Name

David Lee McKeen
Signature

8-5-19
Date