

SETTLEMENT AGREEMENT BETWEEN
MISSOURI REAL ESTATE COMMISSION AND FOX GROVE MANAGEMENT LLC
AND THOMAS PICKEL

Come now Fox Grove Management LLC ("Fox Grove") and Thomas Pickel ("Pickel") (collectively "Licensees") and the Missouri Real Estate Commission ("Commission") and enter into this Settlement Agreement for the purpose of resolving the question of whether Fox Grove's license as a real estate association and Pickel's license as a real estate broker associate 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' licenses, and, additionally, the right to a disciplinary hearing before the Commission under § 621.110, RSMo.

Licensees acknowledge that they understand the various rights and privileges afforded them by law, including the right to a hearing of the charges against them; the right to appear and be represented by legal counsel; the right to have all charges against them proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against them; the right to present evidence on their 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 them and, subsequently, the right to a disciplinary hearing before the Commission at which time they may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against their licenses. Being aware of these rights provided them by operation of law, Licensees knowingly and voluntarily waive each and every one of these rights and freely enter into this Settlement Agreement and agree to abide by the terms of this document, as they pertain to them.

Licensees acknowledge that they have received a copy of the documents relied upon by the Commission in determining there was cause to discipline their licenses, along with citations to law and/or regulations the Commission believes were violated.

For the purpose of settling this dispute, Licensees stipulate that the factual allegations contained in this Settlement Agreement are true and stipulates with the Commission that their licenses, numbered 2004037127

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

(Fox Grove) and 1999021766 (Pickel) are 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 Facts 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, Fox Grove, holds a real estate association license from the Commission, license number 2004037127. The Commission issued Fox Grove's license on December 29, 2004 and it expires June 30, 2020. Licensee's license was current and active at all relevant times herein. Licensee Thomas Pickel is the designated broker for Fox Grove.

3. Licensee, Thomas Pickel, holds a broker associate license from the Commission, license number 1999021766. The Commission issued Pickel's broker associate license on September 21, 1998. Licensee's license expires June 30, 2020 and was current and active at all relevant times herein.

4. On or about September 6, 9, 12-13, 15, 27-28 and October 3-6, and 12, 2016, the Commission conducted an audit of Licensees. The Commission's audit revealed the following violations:

- a. In violation of section 339.100.2(3), RSMo, on multiple instances, Licensee failed to account for money that belonged to others including:
 - i. On multiple instances, Housing Authority payments from January 2015.
 - ii. On one instances, interest earned was not booked to any owner on Commerce Bank Account ending 0981 ("Account 0981").
 - iii. On multiple instances, checks cleared the bank account but were not booked on Commerce Bank account ending 6671 ("Account 6671").
 - iv. On multiple instances, deposits were made to Account 6671 but were not booked.
 - v. On one instance, \$13,000 of \$14,725.00 of a deposit was not booked to any owner in Commerce Bank account ending 4941 ("Account 4941").
- b. In violation of section 339.100.2(19), RSMo, on numerous instances, Licensees issued inaccurate owner's statements for owner H because a tenant security deposit was not booked

as a liability and, on seven instances, incorrect income was reflected, resulting in incorrect management fee being taken from Account 4941.

- c. In violation of section 339.105.1, RSMo, there was an unidentified shortage of \$60.00 in the property management escrow account, Commerce Bank account ending 8285 ("Account 8285").
- d. In violation of section 339.105.1, RSMo, there was an unidentified overage of \$405.00 in the property management escrow account, Commerce Bank account ending 5342 ("Account 5342").
- e. In violation of section 339.105.1, RSMo, there was a net overage of \$5,316.69 in the property management escrow account, Commerce Bank account ending 4314 ("Account 4314") which could be partially identified as an identified overage of \$7,029.00 due to management fees not being removed and an unidentified shortage of \$1,712.31.
- f. In violation of section 339.105.1, RSMo, there was a net overage of \$2,029.29 in the property management escrow account, Commerce Bank account ending 9672 ("Account 9672") which could be partially identified as identified overages of \$598.00 as a result of investments not forwarded to the owner or refunded to the payee, an identified shortage of \$212.46 due to a negative balance for an owner and an unidentified overage of \$1,643.75.
- g. In violation of section 339.105.1, RSMo, there was an unidentified shortage of \$310.00 in the property management escrow account, Commerce Bank account ending 5790 ("Account 5790").
- h. In violation of section 339.105.1, RSMo, there was a net overage of \$1,374.96 in the property management escrow account, Commerce Bank account ending 9674 ("Account 9674") which could be partially identified as an identified overage of \$9.67 for interest not removed during the audit period and an unidentified shortage of \$1,365.29.
- i. In violation of section 339.105.1, RSMo, there was a net overage of \$5.11 in the property management escrow account, Commerce Bank account ending 9675 ("Account 9675") which could be partially identified as an identified overage of \$1.60 for interest not removed during the audit period and an unidentified overage of \$3.51.

- j. In violation of section 339.105.1, RSMo, there was a net overage of \$1,643.91 in the property management escrow account, Commerce Bank account ending 7910 ("Account 7910") which could be partially identified as an identified overage of \$1,644.11 for management fees not removed and an unidentified shortage of \$.20.
- k. In violation of section 339.105.1, RSMo, there was a temporary shortage of \$634.00 from July 26 to July 31, 2016, in Account 7910 due to not depositing rents within 10 banking days.
- l. In violation of section 339.105.1, RSMo, there was a temporary overage in Account 7910 on three instances:
 - i. \$1,663.02 from April 1 through July 21, 2016;
 - ii. \$1,507.02 from May 1 through July 21, 2016; and
 - iii. \$1,719.02 from June 1 through July 21, 2016.
- m. In violation of section 339.105.1, RSMo, there was an unidentified overage of \$1,360.00 in the property management escrow account, Commerce Bank account ending 4095 ("Account 4095").
- n. In violation of section 339.105.1, RSMo, there was an unidentified overage of \$29.21 in the property management escrow account, Commerce Bank account ending 4939 ("Account 4939").
- o. In violation of section 339.105.1, RSMo, on two instances, there were temporary shortages in Account 4939 due to not depositing rents within ten bank days (\$200.00 from July 25 to July 31, 2016 and \$79.85 from July 29 to July 31, 2016).
- p. In violation of section 339.105.1, RSMo, there was an unidentified overage of \$790.99 in the property management escrow account, Commerce Bank account ending 4940 ("Account 4940").
- q. In violation of section 339.105.1, RSMo, there was a net shortage of \$1,077.78 in Account 0981 which could be partially identified as an identified overage of \$82.58 for interest not removed during the audit period, an identified shortage of \$325.00 for security deposits not held as specified by an owner, and an unidentified overage of \$1,872.64.

- r. In violation of section 339.105.1, RSMo, there were identified overages and shortages in the property management escrow account, Commerce Bank account ending 9671 ("Account 9671") including identified overages of \$685.00 for a deposit not booked, an identified overage of \$1,438.34, an identified shortage of \$1,583.96 for checks that cleared the bank but were not booked, an identified shortage of \$2,026.76 for bank fees not removed, \$206.21 for expenses paid out of account and not reimbursed and an unidentified overage of \$1,693.59.
- s. In violation of section 339.105.1, RSMo, there was a temporary shortage of \$765.72 from December 7, 2015 to April 28, 2016 in Account 9671 due to an expense paid out for an owner not associated with the account.
- t. In violation of section 339.105.1, RSMo, there was a net overage in Account 4941 which could be partially identified as:
 - i. Identified overages totaling \$94,143.87;
 - 1. \$13,000.00 due to a \$14,725.00 deposit on May 17, 2016 booked by Licensees as \$1,725.00;
 - 2. \$2,088.19 due to management fees not removed for an owner;
 - 3. \$8,088.01 due to management fees not removed for an owner;
 - 4. \$6,899.34 due to management fees not removed for an owner;
 - 5. \$5,135.29 due to management fees not removed for an owner;
 - 6. \$40.00 due to deposits on July 7 and 8, 2016 that Licensee under-booked;
 - 7. \$27,890.90 due to commingling; and
 - 8. \$31,002.14 due to commingling.
 - ii. Identified shortages totaling \$298,542.38;
 - 1. \$295,245.92 due to negative balances as of July 31, 2016;
 - 2. \$639.61 due to bank fees debited from account;
 - 3. \$2,656.85 due to brokerage expenses paid out of rental account; and
 - iii. An unidentified overage of \$224,738.09
- u. In violation of section 339.105.1, RSMo, on 39 instances, there was a temporary shortage in Account 4941 due to negative owner balances.

- v. In violation of section 339.105.1, RSMo, there was a net overage of \$5,741.58 in the property management escrow account, Commerce Bank account ending 9673 ("Account 9673") which could be partially identified as identified overages for interest not removed (\$303.05), bank fees removed but not booked to any owner (\$2,026.76), and expenses paid out of an account not reimbursed (\$206.21) and an unidentified overage of \$1,693.59.
- w. In violation of section 339.105.1, RSMo, there was an identified shortage in the property management escrow account, Eagle Bank and Trust Company account ending 2705 ("Account 2705") which could be partially identified as an identified shortage of \$2.66 and an unidentified overage of \$2.66.
- x. In violation of section 339.105.1, RSMo, there was a temporary shortage in the property management escrow account, Eagle Bank and Trust Company account ending 8241 ("Account 8241") due to an overdraft.
- y. In violation of section 339.105.1, RSMo, on numerous instances, there was commingling in Account 4941 in that Licensee deposited management fees earned on properties that had single owner property management escrow accounts and Licensee paid brokerage expenses out of the escrow account.
- z. In violation of section 339.105.1, RSMo, there was an overdraft in Account 8241.
- aa. In violation of section 339.105.2, RSMo, and regulation 20 CSR 2250-8.220(7), on 14 instances, the property management escrow account was not registered with the Commission.
 - i. Account 8285;
 - ii. Account 5342;
 - iii. Account 4314;
 - iv. Account 5790;
 - v. Account 9672;
 - vi. Account 9674;
 - vii. Account 9675;
 - viii. Account 7910;
 - ix. Account 4095;

- x. Account 4939;
 - xi. Account 4940;
 - xii. Account 0981;
 - xiii. Account 9671; and
 - xiv. Account 4941.
- bb. In violation of section 339.105.2, RSMo, and regulation 20 CSR 2250-8.220(7), on four instances, Licensee opened and closed a property management escrow account and did not notify the Commission.
- i. Eagle Bank and Trust Company account ending 8907 ("Account 8907");
 - ii. Account 2705;
 - iii. Commerce Bank account ending 2416 ("Account 2416"); and
 - iv. Account 8241.
- cc. In violation of sections 339.720.1 and 339.780.2, RSMo, and regulation 20 CSR 2250-8.090(9)(F), on six instances, Licensees' management agreement did not include a licensee's duties and responsibilities.
- dd. In violation of section 339.730.1(1), RSMo, on 64 instances, Licensee failed to perform the terms of the written agreement with the landlord.
- ee. In violation of section 339.730.1(2), RSMo, on four instances, Licensee collected a management fee in excess of the fees authorized in the management agreement.
- ff. In violation of section 339.780.2, RSMo, and regulation 20 CSR 2250-8.200(1), on six instances, Licensee managed property (2633 California, 2003 California, 2007 Ohio, 2634 and 2634A Oregon, 2822 Ohio, 2610 Oregon and N. Taylor Street) without a current written management agreement.
- gg. In violation of section 339.780.2, RSMo, and regulation 20 CSR 2250-8.090(9)(G), on six instances, the management agreement with the landlord did not contain a statement that permits or prohibits an offer of sub-agency.
- hh. In violation of section 339.780.7, RSMo, the management agreement did not specify the required minimum services.

- ii. In violation of regulations 20 CSR 2250-4.030(1) and 8.010(2), Licensees' business sign did not bear the name under which the brokerage was licensed and the fictitious name (Fox Grove Management) was not registered with the Secretary of State's office.
- jj. In violation of regulation 20 CSR 2250-8.010(2), Licensees' business sign was not displayed outside the regular place of business.
- kk. In violation of regulation 20 CSR 2250-8.030(4), Licensee failed to notify the Commission of the opening of a branch office at 2758 Russell.
- ll. In violation of regulation 20 CSR 2250-8.090(9)(A), on five instances, the management agreement did not properly identify the property in that it contained no city.
- mm. In violation of regulation 20 CSR 2250-8.090(9)(H), on six instances, the management agreement did not include a statement that permits or prohibits the designated broker from acting as a dual agent.
- nn. In violation of regulation 20 CSR 2250-8.090(9)(I), on six instances, the management agreement did not include a statement that permits or prohibits the designated broker from acting as a transaction broker.
- oo. In violation of regulation 20 CSR 2250-8.090(9)(J), on six instances, the management agreement did not specify whether or not the designated broker was authorized to cooperate with and compensate other designated brokers.
- pp. In violation of regulation 20 CSR 2250-8.090(9)(K), on six instances, the management agreement failed to contain a statement that confirms the owner received a Broker Disclosure Form.
- qq. In violation of regulation 20 CSR 2250-8.096(1)(A)2, on 30 instances, the written brokerage relationship disclosure did not identify the source or sources of compensation.
- rr. In violation of regulation 20 CSR 2250-8.096(1)(A)3, on 30 instances, the written brokerage relationship disclosure did not confirm that the brokerage relationships were disclosed to the tenant or their respective agents and or transaction brokers no later than the first showing, upon first contact, or immediately upon the occurrence of any change to that relationship.

- ss. In violation of regulation 20 CSR 2250-8.096(1)(A)5, on 30 instances, the written brokerage relationship disclosure failed to contain a statement that confirms the tenant received the Broker Disclosure Form.
- tt. In violation of regulation 20 CSR 2250-8.160(2), on 4 instances, Licensees failed to retain records include three voided checks for Account 6671 and one voided check for Account 4941.
- uu. In violation of regulation 20 CSR 2250-8.220(1), Licensee did not disclose to all parties the escrow account, Account 0981, was interest bearing.
- vv. In violation of regulation 20 CSR 2250-8.220(1), on 53 instances, Licensee disbursed funds from the property management escrow account, when the owner's account balance was not sufficient to cover the disbursement. Licensee disbursed funds on 6 instances from Account 9672 and 47 instance from Account 4941 when funds were not sufficient to cover the disbursement.
- ww. In violation of regulation 20 CSR 2250-8.220(1) and (2), on multiple instances, Licensee maintained owner funds in the security deposit account without written authorization from the owner.
 - i. Security deposit refunds were paid out of the rental account but the corresponding transfers from the security deposit account to the rental account were not made for Account 5790.
 - ii. Forfeited security deposits were not transferred to owner's account and interest payable to the owner was not removed from Account 4940.
 - iii. Security deposit refunds were paid out of the rental account but the corresponding transfers from the security deposit account to the rental account were not made for Account 0981.
 - iv. Security deposit refunds were paid out of the rental account but the corresponding transfers from the security deposit account to the rental account were not made for Account 9673.
 - v. Interest earned and Licensee moved out but funds were not transferred for Account 2705.

- vi. Interest earned was not removed for Account 2416.
 - xx. In violation of regulation 20 CSR 2250-8.220(2), security deposits were held in Account 8285 without written authorization of the owner.
 - yy. In violation of regulation 20 CSR 2250-on 6 instances, security deposits were not maintained intact.
 - zz. In violation of regulation 20 CSR 2250-8.220(3), on nine instances, License failed to deposit rents within ten banking days.
 - aaa. In violation of regulation 20 CSR 2250-8.220(6), on 54 instances, Licensee did not remove management fees monthly.
 - bbb. In violation of regulation 20 CSR 2250-8.220(6), on 33 instances, Licensee did not remove interest at least once a month from the property management account including 11 instances for Account 9674, 11 instances from Account 9675 and 11 instances for Account 9673.
5. Between September 26 and December 26, 2018, on approximately 32 days, the Commission conducted a re-audit of Licensees. The Commission's re-audit revealed the following violations:
- a. In violation of section 339.020, RSMo, and regulation 20 CSR 2250-4.070(2), Licensee Pickel, an unlicensed officer of the corporation, signed a management agreement for Licensee.
 - b. In violation of section 339.100.2(19), RSMo, on numerous instances, there were inaccurate owner's statements:
 - i. On five instances, rents were deposited in error into other rental accounts and booked as outstanding deposited but not transferred to correct the account promptly.
 - ii. On five instances, the cash balance on bank reconciliation did not agree with the cash balance reflected on the balance sheet.
 - iii. On numerous instances, the security deposit reflected on the balance sheet for the cash and liability amounts did not agree with each other or the amount reflected on the Rent Roll report. Licensees informed the examiner that the amount on report was the true liability for security deposits being held by Licensees.
 - iv. On ten instances, a returned deposit was reflected as an outstanding deposit on the bank reconciliation from January through September 2018.

- v. On eight instances, duplicate journal entries were made when Licensee converted software systems.
 - vi. On five instances, bank service charge fees were booked twice and reflected on bank reconciliation.
 - vii. On one instances, a duplicate journal entry was made for an outstanding deposit.
 - viii. On eight instances, deposit #87 was reflected as an outstanding deposit on the bank reconciliation as of November 11, 2017 when it cleared the bank on November 11, 2017.
 - ix. On eight instances, check #1204 was listed as an outstanding check on the bank reconciliation from February, 2018 through September, 2018, but it had cleared the bank on February 5, 2018.
 - x. On two instances, the management fees worksheet provided to a property owner reflected a different amount than what was used for the management fee calculation.
- c. In violation of section 339.105.1, RSMo, there was a net shortage of \$175.27 in the property management escrow account, Account 9675, which could be partially identified as a total identified overage of \$1.04 for interest not removed, an identified shortage of \$121.00 for bank service charges not charged to owner, and an unidentified shortage of \$55.31.
- d. In violation of section 339.105.1, RSMo, there was a net overage of \$4,581.33 in the security deposit escrow account, Account 9674, which could be partially identified as an identified overage of \$5.06 for interest not removed, an identified shortage of \$36.00 due to bank service charges not charged to the owner, and an unidentified overage of \$4,612.27.
- e. In violation of section 339.105.1, RSMo, there was a net shortage of \$1,359.13 in the property management multi-owner escrow account, Account 9672, which could be partially identified as identified shortages of \$9.00 for bank service charges not charged to the owner, \$84.94 for bank analysis service charges not charged to owner, \$1,447.74 due to a negative owner balance for owner H, and \$124.25 due to CPA invoice charges not charged to the owner and an unidentified overage of \$306.80.

- f. In violation of section 339.105.1, RSMo, there was a net shortage of \$98,986.94 in the property management multi-owner escrow account, Account 4941, which could be partially identified as identified overages in the amount of \$714.23 for management fees not removed, identified shortages totally \$68,472.33 (including bank fees not charges, prepaid rents, and \$65,929.412 due to negative owner balances) and \$31,228.84 in unidentified shortages.
- g. In violation of section 339.105.1, RSMo, there was a net shortage of \$1,216.98 in the property management escrow account, Commerce Bank account ending 4133 ("Account 4133") which could be partially identified as an identified shortage of \$1,769.00 due to un-cleared deposits in transit and an unidentified overages of \$552.02.
- h. In violation of section 339.105.1, RSMo, there was a net overage of \$55,787.47 in the security deposit multi-owner escrow account, Account 9673, which could be partially identified as identified overages in the amount of \$3,627.12 due to managing five properties without an agreement and not removing interest, an identified shortage of \$33.00 due to bank service charges not charged to the owner and an unidentified overage of \$52,192.85.
- i. In violation of section 339.105.1, RSMo, there was a net overage of \$4,225.92 in the security deposit multi-owner account, Account 0981, which could be partially identified as identified overages in the amount of \$596.63 due to interest not removed and managing a property without an agreement, identified shortage of \$27.00 due to bank service charges not charged to the owner and an unidentified overage of \$3,656.29.
- j. In violation of section 339.105.1, RSMo, there was an identified overage in 28 different property management escrow accounts in the amount of \$8,172,229.47 as a result of managing the properties without an agreement. All 28 accounts were single owner accounts in which the entire balance was an identified overage.
 - i. \$3,341.47, Commerce Bank account ending 0879 ("Account 0879");
 - ii. \$4,394.40, Commerce Bank account ending 9426 ("Account 9426");
 - iii. \$6,409.97, Commerce Bank account ending 9423 ("Account 9423");
 - iv. \$12,633.15, Commerce Bank account ending 0887 ("Account 0887");
 - v. \$4,037.74, Peoples National Bank account ending 3663 ("Account 3662");

- vi. \$4,438.49, Commerce Bank, account ending 4787 ("Account 4787");
 - vii. \$3,833.71, Commerce Bank account ending 1886 ("Account 1886");
 - viii. \$2,328.64, Commerce Bank account ending 6243 ("Account 6243");
 - ix. \$27,704.70, Commerce Bank account ending 6663 ("Account 6663");
 - x. \$14,702.28, Commerce Bank account ending 0913 ("Account 0913");
 - xi. \$58,702.48, Commerce Bank account ending 0905 ("Account 0905");
 - xii. \$75,170.27, Commerce Bank account ending 0903 ("Account 0903");
 - xiii. \$339.50, Commerce Bank account ending 0889 ("Account 0889");
 - xiv. \$688.86, Account 0889; Commerce Bank account ending 0889 ("Account 0889");
 - xv. \$27,461.70, Commerce Bank account ending 0885 ("Account 0885");
 - xvi. \$45,171.86, Commerce Bank account ending 9429 ("Account 9429");
 - xvii. \$1,455.24, Commerce Bank account ending 0987 ("Account 0987");
 - xviii. \$3,770.76, Commerce Bank account ending 1002 ("Account 1002");
 - xix. \$28,404.16, Commerce Bank account ending 0907 ("Account 0907");
 - xx. \$15,026.63, Commerce Bank account ending 9433 ("Account 9433");
 - xxi. \$42,288.00, Commerce Bank account ending 0091 ("Account 0091");
 - xxii. \$39,430.80, Commerce Bank account ending 2507 ("Account 2507");
 - xxiii. \$28,957.61, Commerce Bank account ending 2589 ("Account 2589");
 - xxiv. \$66,183.37, Commerce Bank account ending 2453 ("Account 2453");
 - xxv. \$52,715.75, Commerce Bank account ending 2471 ("Account 2471");
 - xxvi. \$33,412.13, Commerce Bank account ending 2591 ("Account 2591");
 - xxvii. \$62,842.26, Commerce Bank account ending 2498 ("Account 2498"); and
 - xxviii. \$64,526.31, Commerce Bank account ending 2492 ("Account 2492").
- k. In violation of section 339.105.1, RSMo, there were identified shortages totaling \$231.22 in three property management escrow accounts due to excess management fees removed: \$168.22, Commerce Bank account ending 7550 ("Account 7550"), \$33.00, Commerce Bank account ending 9021 ("Account 9021"), and \$30.00, Account 8285.

- l. In violation of section 339.105.1, RSMo, there was an identified overage of \$8,173.00 in the security deposit escrow account, Commerce Bank account ending 0908 ("Account 0908") due to managing property without an agreement.
- m. In violation of section 339.105.1, there were unidentified overages of \$6,410.00 in two security deposit escrow accounts: \$5,380.00, Account 5790, and \$1,030.00, Account 5342.
- n. In violation of section 339.105.1, RSMo, there was an overage of \$3,321.00 in the security deposit escrow account, Commerce Bank account ending ("Account 9428"), which could be partially identified as an identified overage in the amount of \$2,944.00 due to managing property without an agreement and an unidentified overage of \$377.00.
- o. In violation of section 339.105.1, RSMo, there was an overage in the security deposit escrow account, Commerce Bank account ending 9424 ("Account 9424") which could be partially identified as an identified overage of \$12,495.00 due to managing property without an agreement and an unidentified overage of \$4,769.00.
- p. In violation of section 339.105.1, RSMo, there was an overage in the amount of \$13,036.00 in the security deposit escrow account, Commerce Bank account ending 0888 ("Account 0888") which could be partially identified as an identified overage of \$9,636.00 (\$9,123.00 due to managing without an agreement and \$513.00 due to outstanding checks) and an unidentified overage of \$3,400.00.
- q. In violation of section 339.105.1, RSMo, there was an overage of \$24,015.30 in the security deposit escrow account, People National Bank account ending 2739 ("Account 2739") which could partially be identified as an identified overage of \$15,254.00 due to managing property without an agreement and an unidentified overage of \$8,761.30.
- r. In violation of section 339.105.1, RSMo, there was an overage in the amount of \$1,914.06 in the property management account, Commerce Bank account ending 0099 ("Account 0099") which could partially be identified as identified overages in the amount of \$1,914.06 due to managing two properties without an agreement.

- s. In violation of section 339.105.1, RSMo, there was a shortage of \$979.15 in the property management escrow account, Commerce Bank account ending 6408 ("Account 6408") due to prepaid rents not maintain in an escrow account.
- t. In violation of section 339.105.1, RSMo, there was a shortage of \$558.00 in the property management escrow account, Commerce Bank account ending 8557 ("Account 8557") due to an un-cleared outstanding deposit.
- u. In violation of section 339.105.1, RSMo, there was an overage in the security deposit escrow account, Commerce Bank account ending 0880 ("Account 0880") which could be partially identified as an identified overage of \$2,592.35 due to managing without an agreement and an unidentified overage of \$1,475.65.
- v. In violation of section 339.105.1, RSMo, there was an overage of \$10,192.00 in the security deposit escrow account, Commerce Bank account ending 4790 ("Account 4790") which could be partially identified as an identified overage in the amount of \$9,727.00 due to managing property without an agreement and an unidentified overage of \$465.00.
- w. In violation of section 339.105.1, RSMo, there was an overage of \$5,496.00 in the security deposit escrow account, Commerce Bank account ending 2891 ("Account 2981") which can be partially identified as an identified overage in the amount of \$2,865.00 due to managing property without an agreement and an unidentified overage of \$2,631.00.
- x. In violation of section 339.105.1, RSMo, there was an overage of \$5,560.00 in the security deposit escrow account, Commerce Bank account ending 2418 ("Account 2418") which can partially be identified as an identified overage of \$4,450.00 due to managing property without an agreement and an unidentified overage of \$1,110.00.
- y. In violation of section 339.105.1, RSMo, there was an overage of \$8,807.27 in the security deposit escrow account, Commerce Bank account ending 7205 ("Account 7205") which could partially be identified as an identified overage of \$3,405.00 due to managing property without an agreement and an unidentified overage of \$5,402.27.
- z. In violation of section 339.105.1, RSMo, there was an overage of \$41,299.23 in the security deposit escrow account, Commerce Bank account ending 6249 ("Account 6249") which could

partially be identified as identified overages in the amount of \$27,432.00 due to managing property without an agreement and \$43.50 due to outstanding checks for security deposits and vendors and an unidentified overage of \$13,823.73.

- aa. In violation of section 339.105.1, RSMo, there was an overage of \$6,569.00 in the security deposit escrow account, Commerce Bank account ending 6666 ("Account 6666") which could be partially identified as an identified overage of \$5,967.00 due to managing property without an agreement and an unidentified overage of \$602.00.
- bb. In violation of section 339.105.1, RSMo, there was an overage of \$8,488.00 in the security deposit escrow account, Commerce Bank account ending 0914 ("Account 0914") which could be partially identified as an identified overage in the amount of \$7,699.00 due to managing property without an agreement and an unidentified overage of \$789.00.
- cc. In violation of section 339.105.1, RSMo, there was an overage of \$31,058.34 in the security deposit escrow account, Commerce Bank account ending 0906 ("Account 0906") which could be partially identified as an identified overage of \$26,144.00 due to managing property without an agreement and an unidentified overage of \$4,914.34.
- dd. In violation of section 339.105.1, RSMo, there was an overage of \$36,387.78 in the security deposit escrow account, Commerce Bank account ending 0904 ("Account 0904") which could be partially identified an identified overage of \$30,995.00 due to managing property without an agreement and an unidentified overage of \$5,392.78.
- ee. In violation of section 339.105.1, RSMo, there was an overage of \$6,134.10 in the security deposit escrow account, Commerce Bank account ending 0886 ("Account 0886") which could be partially identified as an identified overage of \$2,020.00 due to managing property without an agreement, an identified overage of \$1,073.00 due to outstanding checks for security deposits and vendors and an unidentified overage of \$3,041.10.
- ff. In violation of section 339.105.1, RSMo, there was an overage of \$85,669.73 in the security deposit escrow account, Commerce Bank account ending 9430 ("Account 9430") which could be partially identified as an identified overage of \$80,281.73 due to managing property without

an agreement, an identified overage of \$188.00 due to outstanding checks for security deposits and vendors and an unidentified overage of \$5,200.00

- gg. In violation of section 339.105.1, RSMo, there was an overage of \$13,035.00 in the security deposit escrow account, Commerce Bank account ending 0989 ("Account 0989") which could be partially identified as an identified overage of \$8,858.00 due to managing property without an agreement, an identified overage of \$125.00 due to outstanding checks for security deposits and vendors and an unidentified overage of \$4,052.00.
- hh. In violation of section 339.105.1, RSMo, there was an overage of \$4,948.00 in the security deposit escrow account, Commerce Bank account ending 0107 ("Account 0107") which could be partially identified as an identified overage of \$3,063.00 due to managing property without an agreement and an unidentified overage of \$1,885.00.
- ii. In violation of section 339.105.1, RSMo, there was an overage of \$98,320.56 in the security deposit escrow account, Commerce Bank account ending 9434 ("Account 9434") which could be partially identified as an identified overage of \$78,761.54 due to managing property without an agreement and an unidentified overage of \$19,559.02.
- jj. In violation of section 339.105.1, RSMo, there was an overage of \$1,678.50 in the security deposit escrow account, Account 4940, which could be partially identified as an identified overage of \$19.60 due to interest not being removed and an unidentified overage of \$1,658.90.
- kk. In violation of section 339.105.1, RSMo, on numerous instances, there were temporary overages of various amounts in the following property management escrow accounts due to managing the property without an agreement:
 - i. Commerce Bank account ending 9021 ("Account 9021") for properties 2833 and 2833 A Magnolia and 3154 and 3154A Arsenal;
 - ii. Commerce Bank account ending 6069 ("Account 6069") for property 2003 California;
 - iii. Account 4133 for property 2727 Allen;
 - iv. Commerce Bank account ending 3506 ("Account 3506") for properties 2634 and 2634A Oregon;
 - v. Account 4941 for property 2420 N. Taylor;

- vi. Account 8557 for properties 2610 and 2822 Ohio;
 - vii. Commerce Bank account ending 4750 ("Account 4750") for properties no longer being maintained;
 - viii. Commerce Bank account ending 3743 ("Account 3743") for properties no longer being maintained; and
 - ix. Commerce Bank account ending 4237 ("Account 4237") for properties no longer being maintained.
- II. In violation of section 339.105.1, RSMo, on seven instances, there were temporary shortages totaling \$10,315.00 in two property management escrow accounts due to late deposits:
- i. \$558.00 from July 11 to July 18, 2018 in Account 4941;
 - ii. \$1,119.00 from July 13 to July 18, 2018 in Account 4941;
 - iii. \$1,119.00 from July 14 to July 18, 2018 in Account 4941;
 - iv. \$771.00 from August 14 to August 16, 2018 in Account 4941;
 - v. \$3,338.00 from October 16 to November 1, 2017 in Commerce Bank account ending 6408 ("Account 6408");
 - vi. \$1,361.00 from April 6 to April 23, 2018 in Account 6408; and
 - vii. \$2,049.00 from March 14 to March 19, 2018 in Account 6408.
- mm. In violation of section 339.105.1, RSMo, there was a temporary shortage of \$2,800.00 from March 9 to March 12, 2018 in Commerce Bank account ending 1886 ("Account 1886") due to a bank error.
- nn. In violation of section 339.105.1, RSMo, there was a temporary overage of \$681.00 from March 6 to March 19, 2018 in Account 6408 due to a security deposit being held in the operating account without written authorization from the owner.
- oo. In violation of section 339.105.1, RSMo, there were temporary overages totaling \$16,616.00 in Account 4133 due to funds transferred in error -- \$2,002.00 from December 7 to December 18, 2017; \$10,305.00 from April 10 to April 17, 2018; and \$4,309.00 from April 10 to May 15, 2018.

- pp. In violation of section 339.105.1, RSMo, there was a temporary overage of \$522.06 from October 1, 2017 to September 20, 2018 in Account 0980 due to managing property without an agreement.
- qq. In violation of section 339.105.1, RSMo, there was a temporary overage of \$4,000.00 from August 23 to August 27, 2018 in Account 0880 due to the bank depositing funds in the wrong account.
- rr. In violation of section 339.105.1, RSMo, there were temporary overages of various amounts in the security deposit escrow accounts due to managing property without an agreement: on twelve instances, Commerce Bank account ending 3745 ("Account 3745"); and on numerous instances, Commerce Bank account ending 4753 ("Account 4753").
- ss. In violation of section 339.105.1, RSMo, there was a temporary shortage of \$1,170.00 from July 11 to August 23, 2018 in Account 8285 due to Licensee charging management fees twice and then offsetting the overpayment against the August 2018 management fee.
- tt. In violation of section 339.105.1, RSMo, on 21 instances, there were overdrafts in various amounts in property management escrow accounts:
- i. Account 3506 on three instances;
 - ii. Account 4941 on two instances;
 - iii. Account 1886 on one instance;
 - iv. Account 6408 on four instances;
 - v. Account 4133 on nine instances; and
 - vi. Account 0987 on two instances.
- uu. In violation of section 339.105.2, RSMo, on three instances, Licensee closed escrow accounts without notifying the Commission (Accounts 4750, 3743 and 4753).
- vv. In violation of section 339.105.2, RSMo, and regulation 20 CSR 2250-8.220(7), on 28 instances, the escrow account was not registered with the Commission.
- i. Account 3506, one instance;
 - ii. Commerce Bank account ending 4992 ("Account 4992"), one instance;
 - iii. Commerce Bank account ending 2447 ("Account 2447"), one instance;

- iv. Commerce Bank account ending 4887 ("Account 4887"), one instance;
- v. Account 3745, one instance;
- vi. Account 4237, one instance;
- vii. Account 2739, one instance;
- viii. Account 3662, one instance;
- ix. Account 7550, one instance;
- x. Account 9021, one instance;
- xi. Account 6069, one instance;
- xii. Account 6408, one instance;
- xiii. Account 4133, one instance;
- xiv. Account 0899, one instance;
- xv. Account 8557, one instance;
- xvi. Account 0091, one instance;
- xvii. Account 2507, one instance;
- xviii. Account 2589, one instance;
- xix. Account 2453, one instance;
- xx. Account 2471, one instance;
- xxi. Account 2591, one instance;
- xxii. Account 2498, one instance;
- xxiii. Account 2492, one instance;
- xxiv. Account 2891, one instance;
- xxv. Commerce Bank account ending 5471 ("Account 5471"), one instance;
- xxvi. Commerce Bank account ending 9359 ("Account 9359"), one instance;
- xxvii. Account 4573, one instance; and
- xxviii. Commerce Bank account ending 7534 ("Account 7534"), one instance.

ww. In violation of section 339.105.2, RSMo, and regulation 20 CSR 2250-8.220(7), Licensee opened and closed a property management escrow account, Account 0980 and did not notify the Commission.

- xx. In violation of section 339.105.5, RSMo, Licensee removed a management fee from the property management escrow account before Licensee earned the fee.
- yy. In violation of sections 339.720.1 and 339.780.2, RSMo, and regulation 20 CSR 2250-8.090(9)(F), on three instances, Licensees' management agreement did not include all of licensee's duties and responsibilities.
- zz. In violation of sections 339.720.1 and 339.780.2, RSMo, and regulation 20 CSR 2250-8.090(9)(F), Licensees' management agreement did not include all of licensee's duties and responsibilities.
- aaa. In violation of section 339.730.1(1), RSMo, on five instances Licensee collected management fees in excess of fees authorized in the written agreement with the owner.
- bbb. In violation of section 339.730.1(1), on five instances, Licensee failed to perform the terms of the written agreement with the landlord in that Licensee failed to remove management fees as specified.
- ccc. In violation of section 339.780.2, RSMo, and regulation 20 CSR 2250-8.090(9)(G), on three instances, the management agreement with the landlord did not contain a statement which permits or prohibits an offer of sub-agency.
- ddd. In violation of section 339.780.2, RSMo, and regulation 20 CSR 2250-8.200(1), on numerous instances, Licensee managed property without an agreement:
 - i. 2833 and 2833A Magnolia;
 - ii. 3154 and 3154A Arsenal;
 - iii. 2003 California;
 - iv. 2727 Allen;
 - v. 2634 and 2634A Oregon;
 - vi. 2420 N. Taylor;
 - vii. 2610 Oregon;
 - viii. 2822 Ohio; and
 - ix. On numerous instances, properties transferred from Community Asset Management Company.

- eee. In violation of section 339.780.7, RSMo, on three instances, the management agreement did not specify the required minimum services in that none were specified.
- fff. In violation of regulation 20 CSR 2250-8.030(4), Licensee failed to notify the Commission of the closing of a branch office located at 814 N. 19th Street.
- ggg. In violation of regulation 20 CSR 2250-8.090(9)(A), on six instances, the management agreement did not properly identify the property in that there was no city or town.
- hhh. In violation of regulation 20 CSR 2250-8.090(9)(H), on three instances, the management agreement did not include a statement which permits or prohibits the designated broker from acting as a dual agent.
- iii. In violation of regulation 20 CSR 2250-8.090(9)(I), on three instances, the management agreement did not include a statement which permits or prohibits the designated broker from acting as a transaction broker.
- jjj. In violation of regulation 20 CSR 2250-8.090(9)(J), on three instances, the management agreement did not specify whether or not the designated broker is authorized to cooperate with and compensate other designated brokers.
- kkk. In violation of regulation 20 CSR 2250-8.090(9)(K), on three instances, the management agreement did not contain a statement which confirms the landlord received a Broker Disclosure Form.
- lll. In violation of regulation 20 CSR 2250-8.096(1)(A)2, on six instances, the written brokerage relationship disclosure did not identify the source or sources of compensation.
- mmm. In violation of regulation 20 CSR 2250-8.096(1)(A)3, on six instances, the written brokerage relationship disclosure did not confirm that the brokerage relationships were disclosed to the tenant or their respective agents and/or transaction brokers, no later than the first showing, upon first contact or immediately upon the occurrence of any change to that relationship.
- nnn. In violation of regulation 20 CSR 2250-8.160(1), on 11 instances, Licensee failed to retain records including nine voided checks and two instances.

- ooo. In violation of regulation 20 CSR 2250-8.220(1), on numerous instances, Licensee disbursed funds from the property management escrow account when the owner's account balance was not sufficient to cover the disbursement.
- ppp. In violation of regulations 20 CSR 2250-8.220(1) and (2), on numerous instances, Licensee maintained owner funds in the security deposit account without written authorization from the owner.
- qqq. In violation of regulation 20 CSR 2250-8.220(2), on two instances, Licensee held security deposits in the property management escrow account without written authorization from the owner.
- rrr. In violation of regulation 20 CSR 2250-8.220(3), on 12 instances, Licensee failed to deposit rents within 20 banking days.
- sss. In violation of regulation 20 CSR 2250-8.220(6), on numerous instances, Licensee did not remove interest at least once a month from an escrow account.
- ttt. In violation of regulation 20 CSR 2250-8.220(6), on numerous instances, Licensee did not maintain prepaid rent in the property management escrow account.
- uuu. In violation of regulation 20 CSR 2250-8.220(6), on two instances, Licensee did not remove management fees monthly.

6. Section 339.020, RSMO, states, in relevant part:

It shall be unlawful for any person, partnership, limited partnership, limited liability company, association, professional 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.

7. Section 339.040.1, RSMo, states, in relevant part:

1. Licenses shall be granted only to persons who present, and corporations, associations, limited liability companies, and professional corporations whose officers, managers, associates, general partners, or members who actively participate in such entity's brokerage, broker-salesperson, or salesperson business present, satisfactory proof to the commission that they:

- (1) Are persons of good moral character; and
- 2) Bear a good reputation for honesty, integrity, and fair dealing;
and

(3) Are competent to transact the business of a broker or broker salesperson in such a manner as to safeguard the interest of the public.

8. Section 339.105, RSMo, states, in relevant part:

1. Each broker who holds funds belonging to another shall maintain such funds in a separate bank account in a financial institution which shall be designated an escrow or trust account. This requirement includes funds in which he or she may have some future interest or claim. Such funds shall be deposited promptly unless all parties having an interest in the funds have agreed otherwise in writing. No broker shall commingle his or her personal funds or other funds in this account with the exception that a broker may deposit and keep a sum not to exceed one thousand dollars in the account from his or her personal funds, which sum shall be specifically identified and deposited to cover service charges related to the account.

2. Each broker shall notify the commission of his or her intent not to maintain an escrow account, or the name of the financial institution in which each escrow or trust account is maintained, the name and number of each such account, and shall file written authorization directed to each financial institution to allow the commission or its authorized representative to examine each such account; such notification and authorization shall be submitted on forms provided therefor by the commission. A broker shall notify the commission within ten business days of any change of his or her intent to maintain an escrow account, the financial institution, account numbers, or change in account status.

...

5. A broker shall not be entitled to any money or other money paid to him or her in connection with any real estate sales transaction as part or all of his or her commission or fee until the transaction has been consummated or terminated, unless agreed in writing by all parties to the transaction.

9. Section 339.720.1, RSMo, states, in relevant part:

A licensee's general duties and obligations arising from the limited agency relationship shall be disclosed in writing to the seller and the buyer or to the landlord and the tenant pursuant to sections 339.760 to 339.780. Alternatively, when engaged in any of the activities enumerated in section 339.010, a licensee may act as an agent in any transaction in accordance with a written agreement as described in section 339.780.

10. Section 339.730.1(1), RSMo, states, in relevant part:

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[.]

11. Section 339.780, RSMo, states, in relevant part:

...

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.

...

7. All exclusive brokerage agreements shall specify that the broker, through the broker or through one or more affiliated licenses, shall provide, at a minimum, the following services:

- (1) Accepting deliver of and presenting to the client or customer offers and counteroffers to buy, sell, or lease the client's or customer's property or the property the client or customer seeks to purchase or lease;
- (2) Assisting the client or customer in developing, communicating, negotiating, and presenting offers, counteroffers, and notices that relate to the offers and the counteroffers until a lease or purchase agreement is signed and all contingencies are satisfied or waived; and
- (3) Answering the client's or customer's questions relating to the offers, counteroffers, notices, and contingencies.

12. Regulation 20 CSR 2250-4.030(1) states, in relevant part:

Any broker doing business under any name other than the broker's legal name or entity doing business under any name other than the name registered with the secretary of state, shall first comply with the provisions of sections 417.200 – 417.230, RSMo on the registration of fictitious names and shall furnish the commission a copy of the registration within ten (10) days of receipt of the official registration from the secretary of state.

13. Regulation 20 CSR 2250-8.010 states, in relevant part:

(2) A broker's business sign of sufficient size to identify it and bearing the name under which the broker or the broker's firm is licensed, or the regular business name, shall be displayed outside of the broker's regular place of business.

14. Regulation 20 CSR 2250-8.030(4) states, in relevant part:

A broker shall notify the commission, in writing, within ten (10) days after opening or making any change in the address or managing licensee of a branch office.

15. Regulation 20 CSR 2250-8.090 states, in relevant part:

...

(9) Every written property management agreement or other written authorization between a broker and the owners of the real estate shall:

(A) Identify the property to be managed;

...

(F) Include the licensee's duties and responsibilities;

(G) Contain a statement which permits or prohibits the designated broker from offering subagency (not applicable for transaction broker agreements);

(H) Contain a statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;

(I) Contain a statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;

(J) Include specification of whether or not the designated broker is authorized to cooperate with and compensation other designated brokers acting pursuant to any other brokerage relationship as defined by sections 339.710 to 339.860, RSMo, including but not limited to tenant's agents and/or transaction brokers;

(K) Contain a statement which confirms that the landlord received the Broker Disclosure Form prescribed by the commission:

1. On or before the signing of the brokerage relationship agreements; or
2. Upon the licensee obtaining any personal or financial information, whichever occurs first[.]

16. Regulation 20 CSR 2250-8.096 states, in relevant part:

(1) Licensees acting with or without a written agreement for brokerage services pursuant to sections 339.710 to 339.860, RSMo, are required to have such relationships confirmed in writing by each party to the real estate transaction on or before such party's first signature to the real estate contract. Nothing contained herein prohibits the written confirmation of brokerage relationships from being included or incorporated into the real estate contract, provided that any addendum or incorporated document containing the written confirmation must include a separate signature section for acknowledging the written confirmation that shall be signed and dated by each party to the real estate transaction.

(A) Written confirmation must –

...

2. Identify the source or sources of compensation;
3. Confirm that the brokerage relationships, if required by rule or regulation, were disclosed to the seller/landlord and/or buyer/tenant or their respective agents and/or transaction brokers no later than the first showing, upon first contact, or immediately upon the occurrence of any change to that relationship;
4. ...
5. Be signed and dated by the seller/landlord and buyer/tenant. If the landlord has entered into a written property management agreement pursuant to 20 CSR 2250-8.200 – 20 CSR 2250-8.210, the landlord shall not be required to sign the written confirmation; and
6. Be signed and dated by the disclosing licensees on or before the contract date. If a landlord's agent or transaction broker is conducting property management pursuant to 20 CSR 2250-8.200 - 20 CSR 2250-8.210, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), sign the written confirmation on behalf of the landlord's agent or transaction broker.

17. Regulation 20 CSR 2250-8.160 states:

- (1) Every broker shall retain for a period of at least three (3) years true copies of all business books; accounts, including voided checks; records; contracts; brokerage relationship agreements; closing statements and correspondence relating to each real estate transaction that the broker has handled. The records shall be made available for inspection by the commission and its authorized agents at all times during usual business hours at the broker's regular place of business. No broker shall charge a separate fee relating to retention of records.
- (2) Every broker shall retain for a period of at least three (3) years true copies of all property management agreements, correspondence or other written authorization relating to each real estate transaction relating to leases, rentals or management activities the broker has handled. The broker must also retain all business books, accounts and records unless these records are released to the owner(s) or transferred to another broker by written detailed receipt or transmittal letter agreed to in writing by all parties to the transaction.

18. Regulation 20 CSR 2250-8.200(1) states:

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.

19. Regulation 20 CSR 2250-8.220 states, in relevant part:

(1) A broker shall establish and maintain a separate escrow account(s), to be designated as a property management escrow account(s), for the deposit of current rents and money received from the owner(s) or on the owner's(s') behalf for payment of expenses related to property management. Before making disbursements from a property management escrow account, a broker shall ensure that the account balance for that owner's(s') property(ies) is sufficient to cover the disbursements.

(2) All security deposits held by a broker shall be maintained, intact, in an escrow account other than the property management account(s), pursuant to section 339.105, RSMo, unless the owner(s) have agreed otherwise in writing.

(3) All money received by a broker in connection with any property management must be deposited within ten (10) banking days to the escrow account or trust account maintained by the broker.

...

(6) Fees or commissions payable to a broker must be withdrawn from a property management escrow account at least once a month unless otherwise agreed in writing. Any rent paid in advance as a deposit for the last month's rent or as rent other than the current month's rent held by a broker shall be deposited in the property management escrow account unless otherwise agreed to in writing.

(7) In addition to the notification required by section 339.105.2, RSMo, each broker, upon the request of the commission or its agent, shall consent to the examination and audit of the broker's property management escrow account(s) by the commission or its agent. As part of the consent, each broker shall execute a form presented to him/her by the commission or its agent entitled Consent to Examine and Audit Escrow or Trust Account.

20. Licensees' conduct, as described in paragraphs 4 and 5 above, constitutes cause to discipline Licensees' licenses.

21. Cause exists for the Commission to take disciplinary action against Licensees' licenses under § 339.100.2(3), (15), (16) and (19), 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:

(3) Failing within a reasonable time to account for or to remit any moneys, valuable documents or other property, coming into his or her possession, which belongs to others;

...

(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*;

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;

...

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence[.]

Joint Agreed Disciplinary Order

22. 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.

23. The terms of discipline shall include **Licensees' licenses shall be placed on probation for a period of three (3) years.** Licensees' licenses are hereby placed on three (3) years' probation. During the period of **probation** on their licenses, Licensees shall be entitled to practice as a real estate association and real estate broker associate provided they adhere to all the terms stated herein. The period of probation shall constitute the "disciplinary period."

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

Specific Terms

- a. Licensees shall, within 90 days of the effective date of this Order:
 - i. Provide written verification of the correction of all overages and shortages in all escrow accounts, identified in paragraphs 4 and 5 above, to include documentation that Licensees have entered into new management agreements with all owners that comply with 20 CSR 2250-8.090(9); and
 - ii. Utilize only single-owner escrow accounts and properly register all escrow accounts with the Commission.

b. Licensee Pickel **shall pay a civil penalty in the amount of \$1,000.00 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. Pickel's failure to pay the full amount of the \$1,000.00 civil penalty within sixty days of the effective date of this Order shall constitute a violation of this Order.

General Terms

a. Licensees shall keep the MREC apprised at all times in writing of their current mailing and e-mail addresses and telephone numbers at each place of residence and business. Licensees shall notify the MREC in writing within ten days of any change in this information.

b. Licensees shall timely renew Licensees' licenses, timely pay all fees required for license renewal, and comply with all other requirements necessary to maintain their licenses in a current and active state. During the disciplinary period, Licensees shall not place their licenses 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, Licensees may surrender their real estate licenses by submitting a Surrender of Licensure Rights and Privileges form to the MREC along with the original license and any duplicate copies issued to Licensee. If Licensees apply for a real estate license after surrender, Licensees shall be required to requalify as if original applicants. Licensees would have to apply as an original applicant for a salesperson license. 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 Settlement Agreement.

c. Licensees 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.

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

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

f. Licensees 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.

g. Licensees shall report to the MREC each occurrence of Licensees' 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.

h. Licensees not obtain any new licenses from the MREC during the disciplinary period without prior written approval of the MREC.

25. 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.

26. 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.

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

28. 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.

29. 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.

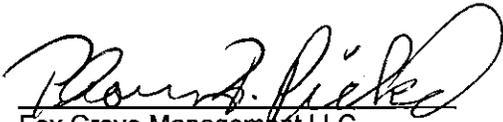
30. Licensees, together with Licensees' heirs and assigns, and Licensees' attorneys, do hereby waive, release, acquit and forever discharge the Commission, its respective members and any of its employees, agents, or attorneys, including any former Commission members, employees, agents, and attorneys, 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.

31. If no contested case has been filed against Licensees, Licensees have 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 licenses of Licensees. If Licensees desire the Administrative Hearing Commission to review this Agreement, Licensees may submit this request to: **Administrative Hearing Commission, United States Post Office Building, P.O. Box 1557, 131 W. High Street, Jefferson City, Missouri 65102-1557.**

32. If Licensees have requested review, Licensees and Commission jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensees' licenses and issue findings of fact and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensees' licenses. Effective the date the Administrative Hearing Commission determines that the agreement sets forth cause for disciplining Licensees' licenses, 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 Licensees do 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.

LICENSEES



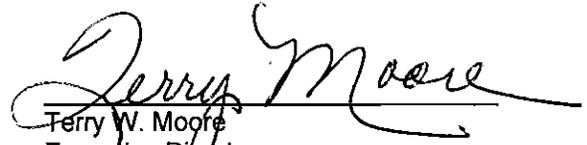
Fox Grove Management LLC
Thomas Pickel, Designated Broker



Thomas Pickel

Date 9/10/19

COMMISSION



Terry W. Moore
Executive Director
Missouri Real Estate Commission

Date 09-13-19

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.

THOMAS D. PICKEL, BROKER-ASSOCIATE
Printed Name


Signature

9/10/19
Date