

SETTLEMENT AGREEMENT BETWEEN
MISSOURI REAL ESTATE COMMISSION AND COMMUNITY MANAGEMENT, LLC
AND MICHAEL C. SAMETZ

Come now Community Management, LLC ("CM") and Michael C. Sametz ("Sametz") (collectively "Licensees") and the Missouri Real Estate Commission ("Commission") and enter into this Settlement Agreement for the purpose of resolving the question of whether CM's license as a real estate association and Sametz'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 waives 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 stipulate with the Commission that their licenses, numbered 2008019911

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

(CM), and 1999034050 (Sametz), 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 in the practice of real estate in the state of Missouri. The Commission has control and supervision of licensure and enforcement of the terms and provisions of Sections 339.010-339.205 and 339.710-339.855, RSMo.

2. Licensee, CM, holds a real estate association license issued by the Commission, license number 2008019911. The Commission issued CM's license on July 1, 2008, and the license has an expiration date of June 30, 2020. Licensee's license was not current and active at all relevant times herein due to non-renewal from June 30, 2018 – June 25, 2019, but was current at all other times since being licensed. Licensee Michael C. Sametz is the designated broker for CM.

3. Licensee, Sametz, holds a broker associate license from the Commission, license number 1999034050, issued by the Commission on October 16, 1996, and the license has an expiration date of June 30, 2020. The license is current and active but was not current at all times herein due to license expiration from June 30, 2018 – June 26, 2019.

4. On February 28, 2019, the Commission notified Licensee Sametz, via written correspondence, that his 2018-2020 renewal application and fee had been received, but that the firm he was associated with did not renew and therefore his license status was "not current". Sametz was advised that he may not conduct any real estate activity requiring a license until his license had been transferred to an active company or the company's license had been renewed by the designated broker. This written correspondence was mailed to the business and home address on file with the Commission, 4935 Broad Oak Drive, St. Louis, Missouri 63128.

5. On or about July 2, 2019, the Commission mailed a letter to Licensee Sametz, to the mailing address on file with the Commission, asking Licensee Sametz to respond with a listing of any real estate activity performed in Missouri by Sametz, or anyone affiliated with CM, during the time Sametz's license was expired. The letter requested the type of real estate business conducted, the date the business was conducted, and the amount of commission earned. The letter also stated that the response "MUST be received from you within 30

days or you will be considered to be in violation of Rule 20 CSR 2250-8.170(1)[.]” The Commission received no response to its July 2, 2019 letter.

6. On or about September 16, 2019, the Commission mailed a second letter to Licensee Sametz, to the mailing address on file with the Commission, asking Licensee Sametz to respond with a listing of any real estate activity performed in Missouri by Sametz, or anyone affiliated with CM, during the time Sametz’s license was expired. The letter requested the type of real estate business conducted, the date the business was conducted, and the amount of commission earned. The letter also stated that the response “**MUST** be received from you within 30 days or you will be considered to be in violation of Rule 20 CSR 2250-8.170(1)[.]” The Commission received no response to its September 16, 2019 letter.

7. The Commission received no response from Licensee Sametz to its July 2 or September 16, 2019 correspondences.

8. Regulation 20 CSR 2250-8.170 states:

(1) Failure of a licensee to respond in writing, within thirty - (30) days from the date of the commission’s written request or inquiry, mailed to the licensee’s address currently registered with the commission, will be sufficient grounds for taking disciplinary action against that licensee.

9. Licensees’ conduct, as described in paragraphs 2 through 7 above, violate the regulation identified in paragraph 8, and constitutes cause to discipline Licensees’ licenses.

10. Cause exists for the Commission to take disciplinary action against Licensees’ licenses under § 339.100.2(15), 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 chapter 621, RSMo, against any person or entity licensed under this chapter, or any licensee, or any person 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:

...

(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*;

...

(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

11. 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.

12. The terms of discipline shall include **CM's license, number 2008019911 and Sametz's broker associate license, numbers 1999034050, shall be REVOKED.** Licensees shall obtain and submit a Closing Form to the Commission and return all indicia of real estate association and broker associate licensure.

13. 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.

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

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

16. 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.

17. 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.

18. 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.

19. 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, 131 West High St., P.O. Box 1557, Jefferson City, MO 65102.**

20. If Licensees have requested review, Licensees and the 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, unless waived by the licensees.

LICENSEES


Community Management, LLC
Michael C. Sametz, Designated Broker


Michael C. Sametz

Date 4/1/20

COMMISSION


Terry W. Moore
Executive Director
Missouri Real Estate Commission

Date APRIL 23, 2020
(COVID-19)

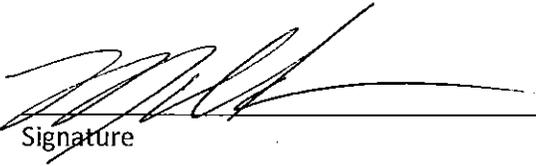
MISSOURI REAL ESTATE COMMISSION 15-DAY WAIVER ATTESTATION

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.

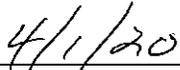
I attest that I understand that the Settlement Agreement to become effective upon the date the Missouri Real Commission's Executive Director signs the Settlement Agreement.



Printed Name



Signature



Date

RECEIVED
APR 14 2020
MREC