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April 11, 2023

Senator Chip Curry, Chair
Representative Tiffany Roberts, Chair
Members of the Committee on Innovation, Economic Advancement and Business
c/o Legislative Information Office
100 State House Station
Augusta, Maine 04333

Re: LD 1036--An Act to Protect Homeowners from Unfair Agreements to Exclusively
List Residential Real Estate for Sale

Dear Senator Curry, Representative Roberts and Members of the Committee:

I offer this testimony in support of LD 1306.

After more than thirty years of representing financial institutions in private practice, I have spent the last 15 years of what might been retirement years to pro bono representation of low-income Maine residents facing foreclosures and debt collection cases. In addition, I also have provided legal education in these areas of legal work to thousands of lawyers across the country in seminars promoted by the National Consumer Law Center, the Practicing Law Institute, the American Bar Association, and others. My work in this regard has resulted in my receiving awards from the Maine Bar Foundation, Boston University School of Law, the State Bar of New York, and the \$100,000 Purpose Prize from Encore.org.

LD 1036 is of critical importance in stopping yet another scheme designed to prey upon the vulnerabilities of low-income homeowners. This is a scheme that offers them seemingly free cash, but which traps them into 40-year contracts encumbering the titles to their properties and making them pay thousands of dollars in real estate brokerage commissions even when no real estate brokerage services are provided.

This scheme, operated by a company called MV Realty, has spread across 32 states so far. In recent months, attorneys general in Massachusetts, Florida, Pennsylvania, Ohio and North Carolina have sued MV Realty to stop these practices under those states' unfair and deceptive trade practices laws. Within the last 9 months, over 25 state legislatures have introduced laws similar to LD 1306 to stop these practices and so far, the laws have been finally enacted in four states and remain in the legislative process in the other states. The first attachment to this letter (at Page 3) is a list of all of the other states where these bills have been introduced.

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This is the predatory scheme of MV Realty:

- Offer a low-income homeowner an unsolicited small cash payment, usually less than \$1,000 in amount.
- Require the homeowner to sign a contract agreeing that, for the next 40 years, the homeowner will not list the property for sale with anyone other than MV Realty.
- Require the homeowner to pay a 3% commission to MV Realty even if the homeowner does not sell the property, but title is transferred due to foreclosure, or divorce, the death of the homeowner, due to a real estate tax lien foreclosure.
- Record a memorandum of the MV Realty contract in the registry of deeds to cloud the homeowner's title and prevent the homeowner from conveying title without paying MV Realty--this also blocks a homeowner from any ability to refinance an existing mortgage.


Maine is fortunate in that these predatory practices have not yet come to Maine, but it is only a matter of time before they do come here if we do not enact LD 1036 to prevent their arrival in Maine.


Attached to this letter (at Page 18) is one of the numerous news articles describing how the MV Realty scheme has damaged low-income homeowners. Also attached (at Page 23) is an example of the abusive MV Realty 40-year agreement with a Florida homeowner.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas A. Cox". The signature is fluid and cursive, with the first name "Thomas" being more prominent.

Thomas A. Cox

	CA AB 1242 (2023)
<i>Source</i>	https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1242
<i>Position</i>	
<i>Disposition</i>	
<i>Sponsor</i>	Lori Wilson (D - Majority)
<i>Summary</i>	Prohibits a real estate broker from entering into a contract that grants an agent the exclusive right to list or sell in excess of one year. Prohibits the total damages or other compensation to be collected from a consumer for breach of a contract in violation of this limit, from exceeding the compensation, if any, paid to the consumer to enter into the contract. Exempts a violation of the one-year maximum from the criminal sanctions. Prohibits a person from knowingly presenting for a recording or filing with a county recorder an exclusive right to list or sell document that is not in with this one-year maximum
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/2/2023] Referred to Com. on JUD.


	CA AB 1345 (2023)
<i>Source</i>	https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1345
<i>Position</i>	
<i>Disposition</i>	
<i>Sponsor</i>	Gregg Hart (D - Majority)
<i>Summary</i>	Enacts the Residential Exclusive Listing Agreements Act. Makes it unlawful for an exclusive listing agreement to last longer than 12 months from the date the agreement was made and would make it unlawful to enforce, or to attempt to enforce, such an agreement. Makes an exclusive listing agreement unrecordable and would make it unlawful to present for recordation, or otherwise attempt to record, an exclusive listing agreement or any memoranda or notice of the agreement.

<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/2/2023] Referred to Com. on JUD.

	CO SB 77 (2023)
<i>Source</i>	https://leg.colorado.gov/bills/sb23-077
<i>Position</i>	En
<i>Disposition</i>	passed-2nd
<i>Sponsor</i>	Nick Hinrichsen (D - Majority)
<i>Summary</i>	Provides that, with certain exceptions, a broker engagement contract for the sale of a residential premises must not: (1) Purport to be a covenant running with the land or to be binding on future owners of interests in the real property; (2) Allow for assignment of the right to provide service without notice and agreement of the owner of the residential premises; or (3) Purport to create a recordable lien, encumbrance, or other real property security interest. Any such lien, encumbrance, or other real property security interest is void and unenforceable.
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/24/2023] Sent to the Governor

	FL HB 861 (2023)(= SB 770)
<i>Source</i>	https://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=77594
<i>Position</i>	En
<i>Disposition</i>	
<i>Sponsor</i>	Will Robinson (R - Majority)


<i>Summary</i>	As substituted 03/16/2023, specifies a limitation on the term of an option to enter into a listing agreement for the disposition of residential real property. Prohibits a court from enforcing an option to enter into a listing agreement by certain means. Requires notice and a written agreement of the residential property owner before a broker may assign the option to enter into a listing agreement to another broker. Provides that a residential loan alternative agreement for the disposition of residential real property may not exceed a term of 6 months and may not be renewed.
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/24/2023] Referred to Commerce Committee. Now in Commerce Committee


	FL SB 770 (2023)(= HB 861)
<i>Source</i>	https://flsenate.gov/Session/Bill/2023/770
<i>Position</i>	
<i>Disposition</i>	
<i>Sponsor</i>	Jennifer Bradley (R - Majority)
<i>Summary</i>	Residential Real Estate Listing Agreements. Specifies a limitation on the term of an option to enter into a listing agreement for the disposition of residential real property. Prohibits a court from enforcing an option to enter into a listing agreement by certain means. Requires notice and a written agreement of the residential property owner before a broker may assign the option to enter into a listing agreement to another broker.
<i>Upcoming Hearings</i>	03/27/23 (S) Committee on Commerce and Tourism
<i>Last Action</i>	[3/27/2023] Hearing Scheduled - Committee on Commerce and Tourism

	GA HB 471 (2023)
<i>Source</i>	http://www.legis.ga.gov/legislation/en-US/Display/20232024/HB/471
<i>Position</i>	
<i>Disposition</i>	
<i>Sponsor</i>	Clint Crowe (R - Majority)
<i>Summary</i>	Adds example of an unfair practice regarding brokerage engagements
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/1/2023] Hearing Scheduled - AGRICULTURE & CONSUMER AFFAIRS COMMITTEE


	IA HF 475 (2023)
<i>Source</i>	https://www.legis.iowa.gov/legislation/BillBook?ga=90&ba=HF475
<i>Position</i>	
<i>Disposition</i>	passed-1st
<i>Sponsor</i>	
<i>Summary</i>	As amended 03/07/2023, provides that an agreement shall be considered unfair under the bill if a service that is covered by the agreement is not required to be completely performed within one year after the date on which the agreement is executed. Defines "service agreement" and "residential real estate". Prohibits a person from causing an unfair agreement, or a notice or memorandum of an unfair agreement, to be recorded. Provides that county recorder may refuse to record an unfair agreement. Provides that if an unfair agreement is recorded, the recorded agreement shall not provide actual or constructive notice against an otherwise bona fide purchaser or creditor, or against heirs or other successors-in-interest to the real estate that is the subject of the agreement

<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/7/2023] Amendment H-1028 adopted. H.J. 523.


	IA SF 417 (2023)
<i>Source</i>	https://www.legis.iowa.gov/legislation/BillBook?ga=90&ba=SF417
<i>Position</i>	
<i>Disposition</i>	
<i>Sponsor</i>	
<i>Summary</i>	Provides that an agreement shall be considered unfair under the bill if a service that is covered by the agreement is not required to be completely performed within one year after the date on which the agreement is executed. Defines "service agreement" and "residential real estate". Prohibits a person from causing an unfair agreement, or a notice or memorandum of an unfair agreement, to be recorded. Provides that county recorder may refuse to record an unfair agreement. Provides that if an unfair agreement is recorded, the recorded agreement shall not provide actual or constructive notice against an otherwise bona fide purchaser or creditor, or against heirs or other successors-in-interest to the real estate that is the subject of the agreement
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/7/2023] Attached to HF 475. S.J. 540.


	IA SSB 1156 (2023)
<i>Source</i>	https://www.legis.iowa.gov/legislation/BillBook?ga=90&ba=SSB1156
<i>Position</i>	
<i>Disposition</i>	

<i>Sponsor</i>	COMMITTEE ON COMMERCE
<i>Summary</i>	Defines terms. Provides that an agreement shall be considered unfair if a service that is covered by the agreement is not required to completely performed within one year after the date on which the agreement is executed. Provides that if an agreement is unfair, the agreement shall be unenforceable. Prohibits a person from recording or causing to be recorded an unfair agreement, or a notice or memo of an unfair agreement.
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[2/27/2023] Committee report approving bill, renumbered as SF 417.


	ID HB 158 (2023)
<i>Source</i>	https://legislature.idaho.gov/sessioninfo/2023/legislation/H0158
<i>Position</i>	
<i>Disposition</i>	
<i>Sponsor</i>	WAYS AND MEANS COMMITTEE
<i>Summary</i>	Adds to existing law to establish the Unfair Service Agreements Act. Establishes characteristics of unfair service agreement. Prohibits recording of an unfair service agreement or notice or memo. Provides that unfair service agreements are unenforceable.
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/1/2023] Hearing Scheduled - Business


	ID HB 238 (2023)
<i>Source</i>	https://legislature.idaho.gov/sessioninfo/2023/legislation/H0238


<i>Position</i>	
<i>Disposition</i>	passed-1st
<i>Sponsor</i>	WAYS AND MEANS COMMITTEE
<i>Summary</i>	Provides that a service agreement is unfair pursuant to this chapter if any part of the agreement provides an exclusive right to a service provider for a term in excess of 1 year after the time it is entered into and has certain characteristics. Prohibits persons from presenting or sending to any county recorder for recording or cause to be recorded an unfair service agreement or notice. Provides that unfair service agreements are unenforceable.
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/22/2023] Read second time; filed for Third Reading


	MD HB 728 (2023)(= SB 579)
<i>Source</i>	https://mgaleg.maryland.gov/mgaweb/Legislation/Details/hb0728?ys=2023RS
<i>Position</i>	
<i>Disposition</i>	
<i>Sponsor</i>	Marlon Amprey (D - Majority)
<i>Summary</i>	Prohibits an exclusive listing agreement for the sale of residential property from being effective for more than 1 year. Requires the State Real Estate Commission to include an assessment of the use of exclusive listing agreements in a certain annual report.
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[2/28/2023] Hearing Scheduled - Environment and Transportation

	MD SB 579 (2023)(= HB 728)
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<i>Source</i>	https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0579?ys=2023RS
<i>Position</i>	
<i>Disposition</i>	passed-1st
<i>Sponsor</i>	Antonio Hayes (D - Majority)
<i>Summary</i>	As amended 03/16/2023, prohibits certain service agreements for the maintenance, purchase, or sale of residential property from containing certain provisions; prohibiting the recordation of service agreements prohibited. Provides that a service agreement, or any part of a service agreement, may not be effective for more than one year.
<i>Upcoming Hearings</i>	03/30/23 (H) Environment and Transportation
<i>Last Action</i>	[3/30/2023] Hearing Scheduled - Environment and Transportation


	ME LD 1306 (2023)
<i>Source</i>	https://legislature.maine.gov/LawMakerWeb/summary.asp?ID=280087963
<i>Position</i>	
<i>Disposition</i>	
<i>Sponsor</i>	Arthur Bell (D - Majority)
<i>Summary</i>	Prohibits the use of agreements for homeowners to exclusively list their residential property for sale. Prohibits the recording of the agreements and provides remedies for owners who are affected by the recording of the agreements.
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/23/2023] Committee on Innovation, Development, Economic Advancement and Business suggested and ordered printed. The Bill was REFERRED to the Committee on INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND BUSINESS.Sent for concurrence. ORDERED SENT FORTHWITH.

	NC HB 422 (2023)(= SB 344)
<i>Source</i>	https://www.ncleg.gov/BillLookup/2023/H422
<i>Position</i>	
<i>Disposition</i>	
<i>Sponsor</i>	Vernetta Alston (D - Minority)
<i>Summary</i>	Unfair Real Estate Agreements Act. Defines various terms. Makes a Real Estate Service Agreement unfair if it is effective and binding for more than one year from the effective date of the Real Estate Service Agreement and has certain characteristics. Makes an agreement that is in violation of these provisions an Unfair Real Estate Service Agreement and void and unenforceable. Prohibits an Unfair Real Estate Service Agreement, or notice or memorandum thereof, from operating as a lien, encumbrance, or security interest. Prohibits requiring an owner or buyer from recording any document voiding an Unfair Real Estate Service Agreement, or notice or memorandum thereof, recorded in violation of these provisions. Allows but does not require the register of deeds to refuse to accept an Unfair Real Estate Service Agreement, or notice or memorandum thereof, for recordation
<i>Upcoming Hearings</i>	03/29/23 (H) Judiciary 1
<i>Last Action</i>	[3/29/2023] Hearing Scheduled - Judiciary 1


	NC SB 344 (2023)(= HB 422)
<i>Source</i>	https://www.ncleg.gov/BillLookup/2023/S344
<i>Position</i>	
<i>Disposition</i>	
<i>Sponsor</i>	Paul Lowe (D - Minority)
<i>Summary</i>	Unfair Real Estate Agreements Act. Defines various terms. Makes a Real Estate Service Agreement unfair if it is effective and binding for more than one year from the effective date of the Real Estate Service Agreement and has certain characteristics. Makes an agreement that is in violation of these provisions an Unfair Real Estate Service Agreement and void and unenforceable. Prohibits an Unfair Real Estate Service Agreement, or notice or memorandum thereof, from operating as a lien, encumbrance, or security interest. Prohibits requiring an owner or buyer from recording any document voiding an Unfair Real Estate Service Agreement, or notice or memorandum thereof, recorded in violation of these provisions. Allows but does not require the register of deeds to refuse to accept an Unfair Real Estate Service Agreement, or notice or memorandum thereof, for recordation


	Real Estate Service Agreement, or notice or memorandum thereof, for recordation
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/22/2023] Ref To Com On Rules and Operations of the Senate

	ND HB 1188 (2023)
<i>Source</i>	https://www.ndlegis.gov/assembly/68-2023/regular/bill-overview/bo1188.html
<i>Position</i>	
<i>Disposition</i>	enacted
<i>Sponsor</i>	Scott Louser (R - Majority)
<i>Summary</i>	Provides that a service agreement is deemed unfair if the service obligations of the agreement are not to be performed within one year after the agreement is executed.
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/24/2023] Filed with Secretary Of State 03/23

	NJ AB 4962 (2022)(= SB 3571)
<i>Source</i>	https://www.njleg.state.nj.us/bill-search/2022/A4962
<i>Position</i>	
<i>Disposition</i>	passed-1st
<i>Sponsor</i>	Paul Moriarty (D - Majority)
<i>Summary</i>	As amended 02/13/2023, prohibits licensed real estate brokers, salespeople, and broker-salespeople from entering into contracts for the sale of real estate that give the licensee the exclusive right to act as listing agent for the real estate for a period longer than five years. Requires that such contracts include an option allowing the owner of the real estate to terminate the contract early in exchange for an amount that is not greater than the initial contract price, plus six percent of the initial contract price for each year that elapses following the effective date of the contract

<i>Upcoming Hearings</i>	
<i>Last Action</i>	[2/28/2023] Received in the Senate, Referred to Senate Commerce Committee


	NJ SB 3571 (2022)(= AB 4962)
<i>Source</i>	https://www.njleg.state.nj.us/bill-search/2022/S3571
<i>Position</i>	
<i>Disposition</i>	
<i>Sponsor</i>	Nellie Pou (D - Majority)
<i>Summary</i>	Prohibits licensed real estate brokers, salespeople, and broker-salespeople from entering into contracts for the sale of real estate that give the licensee the exclusive right to act as listing agent for the real estate for a period longer than ten years. Requires that such contracts include an option allowing the owner of the real estate to terminate the contract early in exchange for an amount that is not greater than the initial contract price, plus six percent of the initial contract price for each year that elapses following the effective date of the contract
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[2/9/2023] Introduced in the Senate, Referred to Senate Commerce Committee


	NV AB 392 (2023)
<i>Source</i>	https://www.leg.state.nv.us/Session/82nd2023/Reports/history.cfm?ID=843
<i>Position</i>	
<i>Disposition</i>	

<i>Sponsor</i>	Heidi Kasama (R - Minority)
<i>Summary</i>	Prohibits, with certain exceptions, a service provider from entering into or recording a service agreement with an owner of residential property that provides for the performance of the agreement more than 1 year from the date of the execution of the agreement if the service agreement if certain conditions are met. Provides that such a service agreement is void and unenforceable. Requires a service provider that has entered into a service agreement on or before October 1, 2023, to record a notice of the service agreement with the county clerk of the county in which the real property that is subject to the service agreement is located
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/24/2023] From printer. To committee.


	PA HB 657 (2023)
<i>Source</i>	https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?synd=2023&sind=0&body=H&type=B&bn=657
<i>Position</i>	
<i>Disposition</i>	
<i>Sponsor</i>	Donna Bullock (D - Majority)
<i>Summary</i>	Establishes consumer protections against unfair realty agreements for homeowners in the Commonwealth by establishing prohibitions and requirements for these agreements. Provides that a realty agreement between a real estate professional and a homeowner may not provide for a service that will not be performed within one year of the execution of the realty agreement, including a one-time payment to the homeowner in exchange for the exclusive opportunity to list the residential real property on the realty market for a period in excess of one year

<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/21/2023] Referred to HOUSING AND COMMUNITY DEVELOPMENT

	TN HB 1182 (2023)(= SB 368)
<i>Source</i>	https://wapp.capitol.tn.gov/apps/BillInfo/default.aspx?BillNumber=HB1182&GA=113
<i>Position</i>	
<i>Disposition</i>	
<i>Sponsor</i>	Johnny Garrett (R - Majority)
<i>Summary</i>	As amended 03/21/2023, establishes that a recorded service agreement in connection with the sale of residential real estate or the sale of any product or the performance of any personal service on or for the maintenance of residential real estate is void and unenforceable if the agreement meets certain conditions. Provides certain exceptions. Prohibits a service provider from recording or causing to be recorded an unfair service agreement or notice or memorandum. Establishes a service provider who violates the recording prohibition is liable to an affected party for \$10,000 in statutory damages as well as other damages and fees.
<i>Upcoming Hearings</i>	03/27/23 (H) House Floor Session
<i>Last Action</i>	[3/27/2023] Hearing Scheduled - House Floor Session

	TN SB 368 (2023)(= HB 1182)
<i>Source</i>	https://wapp.capitol.tn.gov/apps/BillInfo/default.aspx?BillNumber=SB0368&GA=113
<i>Position</i>	
<i>Disposition</i>	

<i>Sponsor</i>	Frank Niceley (R - Majority)
<i>Summary</i>	As amended 03/21/2023, establishes that a recorded service agreement in connection with the sale of residential real estate or the sale of any product or the performance of any personal service on or for the maintenance of residential real estate is void and unenforceable if the agreement meets certain conditions. Provides certain exceptions. Prohibits a service provider from recording or causing to be recorded an unfair service agreement or notice or memorandum. Establishes a service provider who violates the recording prohibition is liable to an affected party for \$10,000 in statutory damages as well as other damages and fees.
<i>Upcoming Hearings</i>	03/27/23 (S) Senate Floor Session
<i>Last Action</i>	[3/27/2023] Hearing Scheduled - Senate Floor Session

	UT HB 211 (2023)
<i>Source</i>	https://le.utah.gov/~2023/bills/static/HB0211.html
<i>Position</i>	
<i>Disposition</i>	enacted
<i>Sponsor</i>	Calvin Musselman (R - Majority)
<i>Summary</i>	Provides that certain residential property service agreements are void. Prohibits recording of a void residential property service agreement or related documents. Allows a person to recover damages caused by the recording of a void residential property service agreement. Allows the division to take disciplinary action against a person licensed or required to be licensed by the division who enters into or records a void residential property service agreement.
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/14/2023] Governor Signed

	WA SB 5399 (2023)
<i>Source</i>	https://apps.leg.wa.gov/billinfo/summary.aspx?bill=5399&year=2023
<i>Position</i>	
<i>Disposition</i>	passed-1st
<i>Sponsor</i>	Mark Mullet (D - Majority)
<i>Summary</i>	As substituted 2/8/2023, provides that no future listing right purchase contract shall exceed two years duration and may not be renewed or extended. Gives an owner 10 days after entering into one of these contracts to provide a notice of cancellation.
<i>Upcoming Hearings</i>	
<i>Last Action</i>	[3/24/2023] Hearing Scheduled - Consumer Protection & Business

ATTACHMENTS
ON FILE

Exhibit "A"

MVR HOMEOWNER BENEFIT AGREEMENT

THIS MVR HOMEOWNER BENEFIT AGREEMENT ("Agreement") is made and entered into as of the effective date referenced below (the "Effective Date"), by and between MV REALTY PBC, LLC, a Florida limited liability company (the "Company"), having its principal place of business at 401 East Atlantic Avenue, Suite 201, Delray Beach, Florida 33483, and Roy R Brightwell having an address of [REDACTED] (the "Property Owner").

RECITALS

- A. Property Owner owns 100% of that certain property located at [REDACTED] (the "Property").
- B. Property Owner desires to enter into an agreement to engage the Company or its designee to act as listing agent should Property Owner decide to market the Property for sale, all in accordance with the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual promises contained herein and the payment of the Promotion Fee (as defined below) to Property Owner, the Company and Property Owner hereby agree as follows:

1. Exclusive Right to List

- a. In exchange for Company's payment of eight hundred seventy-nine and No/100 Dollars (\$879) (the "Promotion Fee") to Property Owner, Property Owner hereby agrees to the terms of this Agreement and that Company, or Company's designee, shall have the exclusive right to act as listing agent (as a transaction broker) for any sale of the Property on or after the Effective Date, except as otherwise expressly provided herein. Without limiting the foregoing, Property Owner shall not engage, hire or otherwise employ any other real estate brokerage, licensed broker or sales agent, which for purposes of this Agreement, includes listing the Property as "for sale by owner" through a third-party service that offers advertising, marketing services or who is otherwise compensated for generating interest in the Property, whether paid a commission or flat fee (collectively, the "Prohibited Engagements").
- b. No later than ten (10) business days prior to the date Property Owner wishes to market the Property for sale, it shall deliver written notice to the Company by mail and email to the addresses listed in Section 6 below, indicating its intent to sell the Property (the "Intent to List"). Within ten (10) business days after Company's receipt of the Intent to List, Company or its designee shall provide Property Owner with a listing agreement similar to the listing agreement attached hereto as Exhibit A (each, a "Listing Agreement"). As specifically discussed and agreed to between Company and Property Owner, the Listing Agreement shall provide for the payment of a commission to the Company (plus applicable sales tax) in an amount equal to six percent (6%) of the total sales price for the Property provided, however, that the Company shall not receive less than 3% of \$266,380.00, the Property's current home value estimate (the "Commission"). Except when not in Property Owner's best interest, Company's policy is to cooperate with all brokers who, in addition to the Company, participate in the sale of the Property (e.g., a broker for the buyer) ("Cooperating Broker") and offer compensation in the amount of three percent (3%) of the purchase price ("Cooperator's Commission") to a Cooperating Broker. To the extent there is more than one Cooperating Broker, Company will offer each Cooperating Broker an equal portion of the Cooperator's Commission (e.g., if there are two Cooperating Brokers, then Company will offer each Cooperating Broker compensation in the amount of one and one-half percent (1.5%) of the purchase price). A Cooperating Broker may include a broker who is employed and/or affiliated with the same brokerage as the listing agent.
- c. The Listing Agreement shall indicate the purchase price for the Property desired by the Property Owner. Property Owner shall, within three (3) business days after receipt of the draft Listing Agreement, sign and return the Listing Agreement in accordance with the instructions included therewith.
- d. Subject to the provisions of this Agreement, Company or its designee shall act as Property Owner's listing agent should Property Owner decide to market the Property for sale during the term of this Agreement. However, notwithstanding anything to the contrary in this Agreement or the Listing Agreement, Company will act strictly as a transaction broker.
2. Term. This Agreement shall be effective from and after the Effective Date through the earlier of: (i) the date the Property is sold in an arms-length bona-fide transaction, and the Commission is paid to the Company, in accordance

with the terms herein, and (ii) the date that is forty (40) years after the Effective Date (the "Term"), unless this Agreement is cancelled in writing by Company or terminated in accordance with Section 3 below. For the avoidance of doubt, Company and Property Owner acknowledge and agree that this Agreement shall continue in full force and effect through the Term notwithstanding that the Property Owner and the Company may have entered into a Listing Agreement. Subject to the provisions of Section 4 below, should any Listing Agreement expire or otherwise terminate without the payment of the Commission to Company, Company shall retain the exclusive listing rights set forth in Section 1 above for any future listing, all on the terms and conditions set forth in this Agreement.

3. Early Termination Fee.

- a. In the event either (A) the Property Owner fails to perform any of its obligations under this Agreement, including, without limitation, entering into any Prohibited Engagements, or (B) an Early Termination Event (as defined below) shall occur, then the Property Owner shall immediately pay Company, as agreed upon liquidated damages and not as a penalty, an early termination fee (the "Early Termination Fee") in the amount of three percent (3%) of the greater of (i) \$266,380.00, the Property's current Realtors Valuation Model home value estimate, or (ii) the fair market value of the Property at the time of the Property Owner's breach or Early Termination Event, as reasonably determined by the Company. The Company and Property Owner agree that the damages resulting from a Property Owner default or Early Termination Event would be difficult to ascertain and that the foregoing means of calculating the Early Termination Fee is fair and reasonable.
- b. As used herein, the term "Early Termination Event" means the occurrence of any one or more of the events mentioned in subparagraph 3(c) below.
- c. A sale or other transfer of the Property occurs that does not result in the Company being paid the Commission, except that a transfer to a spouse, heir(s) or devisee(s) or a transfer for estate planning purposes shall not constitute an Early Termination Event if, within ten (10) days thereafter, the transferee spouse or other individual or entity receiving an interest in the Property, or in the case of a transfer arising out of the death of the Property Owner, the administrator or personal representative, as applicable, together with any known heirs or devisees in which title to the Property shall have vested as a matter of law, executes an assumption of this Agreement, in form and substance satisfactory to Company, whereby such spouse or other persons or party, if any, agrees to be bound by this Agreement, with the same effect as if they had originally been the Property Owner hereunder. In addition, the following subparagraphs 3(c)(i) and 3(c)(ii) shall each be considered an Early Termination Event (and therefore included in the definition of an Early Termination Event):
 - i. Property Owner terminates, or attempts to terminate, the Company's right to act as the exclusive listing agent for the Property; or
 - ii. Property Owner ceases to be the owner of the Property as a result of foreclosure, forfeiture or other transfer of interests in the Property, whether voluntary or involuntary, subject to the provisions of subparagraph 3(c) above.

4. Owner Listing Period.

- a. Notwithstanding the provisions of Section 1 above, if after six (6) months following the execution and delivery of a Listing Agreement (an "Exclusive Listing Period"), Company is unable to procure a ready, willing, and able buyer for the Property on terms and conditions consistent with the applicable Listing Agreement, then for the sixty (60) day period immediately following the Exclusive Listing Period (that sixty (60) day period, the "Owner Listing Period"), Property Owner may attempt to procure a buyer independent of Company's efforts.
- b. In the event that Property Owner exercises his or her rights under subparagraph 4(a) above and enters into a contract with a Qualified Buyer (as defined below) during the Owner Listing Period, which contract closes and title to the Property transfers (i) on terms identical to those set forth in paragraph 3(a) of the then applicable Listing Agreement¹, and (ii) no later than the sixtieth (60th) day following the expiration of the Owner Listing Period, then no Commission will be due and payable to Company in connection with that sale. For purposes of this subparagraph, the term "Qualified Buyer" means a ready, willing and able buyer who (i) is unaffiliated with the Property Owner, (ii) enters into an arm's length transaction for the purchase of the Property on the identical terms set forth in the Listing Agreement, and (iii) is not a person to whom Company showed the Property or was otherwise identified as a prospect by Company in accordance with the terms and conditions of the Listing Agreement.

¹ Seller acknowledges that in determining whether the sale terms were identical to those set forth in the applicable Listing Agreement, Company will consider the total purchase proceeds received by the Seller in connection with the sale of the Property, including all credits involved in the transaction and the sale of all related property (including, without limitation, personal property and furniture). Seller agrees to fully cooperate with Company in connection with the preceding (including, without limitation, providing all documentation related to the sale of the Property).

5. Notice of Agreement.

- a. Property Owner's obligations hereunder shall constitute covenants running with the land and shall bind future successors in interest to title to the Property. Should Property Owner default under this Agreement, any amounts owed by Property Owner to Company as a result of such default shall be secured by a security interest and lien in and against the Property as security for the amounts owed by Property Owner to Company.
- b. Company reserves the right to record a memorandum of this Agreement, in form and substance similar to the Memorandum of MVR Homeowner Benefit Agreement attached hereto as Exhibit B (the "Memorandum"), to provide constructive notice of Company's rights hereunder. Upon Company's request from time to time, Property Owner shall provide Company with a written certificate or recordable amendment to the Memorandum confirming the existence of this Agreement and that this Agreement remains in full force and effect.

6. Notice. Any notice required or in connection with this Agreement shall be sent to Company and Property Owner to the following mailing and email addresses:

COMPANY

MV Realty PBC, LLC
401 E Atlantic Avenue, Suite 201
Delray Beach, FL 33483
with Copy to: AGENT Scott Garson
EMAIL scottg@mvrealtyfl.com

PROPERTY OWNER

Email Address: [REDACTED]

*MV Realty would like to send you an electronic copy of your agreement. Please provide your email address above or confirm that the email address listed above is correct. Initials: JS

7. Arbitration. Any and all disputes, claims, or controversies whatsoever between the Property Owner and the Company (collectively, the "Parties"), whether based on contract, tort, or any other legal right or claim, including alleged violation of consumer or privacy laws, shall be referred to and resolved exclusively by binding arbitration as stated in the Listing Agreement, which arbitration provisions are hereby incorporated by reference. See Exhibit A (attached). However, in the event of any dispute, claim or controversy between the Parties, the Company shall retain the right to file a judicial action to enable the recording of a notice of pending action or lis pendens. The Company's filing of such judicial action shall not constitute a waiver of the Parties' right under this Agreement to arbitrate all disputes, claims, or controversies (without exception), which right to arbitrate shall be enforced at all times.
8. WAIVER OF RIGHT TO CLASS ACTION RELIEF: THIS CONTRACT PROVIDES FOR THE EXCLUSIVE RESOLUTION OF DISPUTES THROUGH INDIVIDUAL ARBITRATION PROCEEDINGS ON PROPERTY OWNER'S OWN BEHALF INSTEAD OF THROUGH ANY CLASS ACTION IN COURT OR ARBITRATION. EVEN IF AN APPLICABLE LAW PROVIDES OTHERWISE, PROPERTY OWNER WAIVES ALL RIGHTS TO BE PART OF A CLASS ACTION AND PROPERTY OWNER AGREES THAT ALL DISPUTES WITH THE COMPANY OR RELATING TO THIS AGREEMENT SHALL BE LITIGATED ONLY BY PROPERTY OWNER INDIVIDUALLY IN ARBITRATION. THE ARBITRATOR OR APPELLATE PANEL APPOINTED BY THE AMERICAN ARBITRATION ASSOCIATION SHALL HAVE NO AUTHORITY TO ARBITRATE CLAIMS ON A CLASS ACTION BASIS. IF FOR ANY LEGAL REASON THIS CLASS ACTION WAIVER IS UNENFORCEABLE AS TO ANY PARTICULAR CLAIM, THEN AND ONLY THEN SUCH CLAIM ONLY SHALL NOT BE SUBJECT TO ARBITRATION.

9. **Representations and Warranties.** Property Owner represents and warrants that (i) it has no other written, oral or other contractual arrangement relating to the sale or listing for sale of the Property, including no other agreement with any real estate broker, agent or salesperson related to the Property, (ii) it is not in default of any loan, including any mortgage loan, currently encumbering the Property, and (iii) is not in default, or past due, on any taxes, assessments (including, without limitation, any home owners association or condominium assessments), or any other payment(s) that may result in a lien being placed on the Property.

10. **Additional Representations and Warranties by Property Owner.** Property Owner represents and warrants to Company that at the time that Property Owner executes this Agreement Property Owner has () or does not have (X) an interest or intention to market, sell or list the Property. Property Owner understands that Company is relying on the representations made by Property Owner in this Section 10 to ensure that Company complies with all applicable laws that may apply should Property Owner intend to market, sell or list the Property at this time.

Initials: 

11. **Miscellaneous.**

a. **Marketing Materials.** Property Owner hereby agrees that Company may utilize any photographs, descriptions, and renderings generated by Company in relation to this Agreement, including, without limitation, any and all photographs, descriptions, and renderings, in any manner deemed fit by Company, in its sole and absolute discretion including, without limitation, utilizing such materials in Company's general marketing initiatives and efforts. In agreeing to use of such materials, Property Owner consents to the Company's use of Property Owner's likeness or image in any materials that are promoting, advertising or marketing Company's business or services and hereby expressly releases any claim relating to the use of image or likeness, including any right to publicity relating to the same.

b. **Assignment.** This Agreement and the rights, duties, obligations and privileges hereunder may not be assigned by Property Owner without the prior written consent of Company, which may be withheld in Company's sole discretion. Property Owner agrees that Company may delegate some or all of its obligations under this Agreement and any future Listing Agreement, and Company may transfer or assign some or all of its rights hereunder, including the right to receive the Commission and/or the Early Termination Fee. Following delegation of duties or assignment of rights by Company, all terms of this Agreement shall remain binding on Property Owner and all rights and privileges inure to the benefit of Company's successors or assigns.

c. **Entire Agreement.** This Agreement contains the entire agreement between the parties with respect to the subject matter contained herein and all prior negotiations and agreements are merged herein. In the event any provisions of this Agreement are held to be invalid or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions of this Agreement shall remain unaffected.

d. **Governing Law.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Florida.

e. **Waiver.** The failure by Company to enforce any provision of this Agreement shall not constitute a waiver of future enforcement of that or any other provision.

f. **Counterparts.** This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original for all purposes, but all such counterparts shall together constitute but one and the same instrument. This Agreement will not be binding on the Company unless and until it is signed by a duly authorized officer and broker of the Company.

g. **Cooperation.** Property Owner agrees to fully cooperate with the Company in implementing and enforcing the terms of this Agreement, including executing any documents necessary to ensure enforcement of the Agreement.

Agreed to, signed, sealed and delivered:
PROPERTY OWNER:

By: [Signature]

Name: Roy R Brightwell

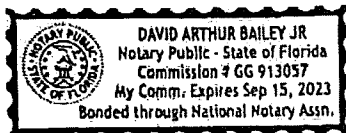
Date: 10/17/2020

STATE OF FLORIDA)

COUNTY OF Pineles) ss:

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 17 day of October, 2020, by Roy R Brightwell, who is personally known to me or who has produced FL ID as identification.

[NOTARIAL SEAL]



[Signature]
Print Name: David Arthur Bailey Jr
Notary Public, State of Florida
Commission #: GG 913057
My Commission Expires: Sep 15, 2023

COMPANY:

[Signature]
MV REALTY PBC, LLC, a Florida limited liability company

By:

Name: Amanda J. Zachman

Title: Officer and Broker

Date:

Effective Date of Agreement: 10/17/2020

This Instrument Was Prepared By:
Amanda J. Zachman
MV REALTY PBC, LLC
401 East Atlantic, Suite 201
Delray Beach, Florida 33483

MEMORANDUM OF MVR HOMEOWNER BENEFIT AGREEMENT

THIS MEMORANDUM OF MVR HOMEOWNER BENEFIT AGREEMENT (this "Memorandum"), dated as of the Effective Date, is by and between Roy R Brightwell, herein called "Property Owner", whose address is [REDACTED] and MV REALTY PBC, LLC, a Florida limited liability company, and/or its assigns or designees, herein called "Listing Broker", whose address is 401 East Atlantic Avenue, Suite 201, Delray Beach, Florida 33483.

WITNESSETH:

1. That by that certain MVR Homeowner Benefit Agreement, dated as of Effective Date (the "Agreement") by and between Listing Broker and Property Owner, Property Owner has agreed to grant Listing Broker the exclusive right to act as listing agent for any sale of the Property Owner's property should the Property Owner decide to sell such property during the term of the Agreement, which property is legally described as follows (the "Property"):

DIST:TS CITY/MUNI/TWP:CITY OF TARPON SPRINGS SEC/TWN/RNG/MER: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

2. The term of the Agreement began on the Effective Date (the "Commencement Date") and expires on the earlier of: (i) the date the Property is sold in accordance with the Agreement, and (ii) the date that is forty (40) years after the Commencement Date (the "Term"), unless otherwise terminated in accordance with its terms.
3. This instrument does not alter, amend, modify or change the Agreement in any respect. It is executed by the parties solely for the purpose of recordation in the Public Records of Pinellas County, Florida, and it is the intent of the parties that it shall be so recorded and shall give notice of, and confirm the, Agreement and all of its terms to the same extent as if all the provisions of the Agreement were fully set forth herein, including, without limitation, that the obligations of Property Owner under the Agreement constitute covenants running with the land and shall bind future successors-in-interest to title to the Property. All capitalized terms used in this Memorandum which are not defined herein shall have the meanings ascribed to them in the Agreement.
4. There may be amounts due and owing to Listing Broker, and prior to any deed transfer or conveyance, confirmation from Listing Broker on amounts due must be obtained by the title company or third party closing agent.

IN WITNESS WHEREOF, Property Owner has caused this Memorandum to be duly executed as of the date first written above.

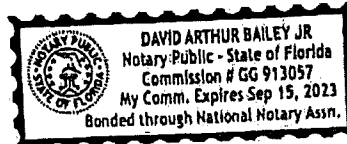
By: [Signature]
Name: Roy R. Bighwell

Date: 10/17/2020
STATE OF Florida

COUNTY OF Duval) ss:

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 17 day of October, 2020, by Roy R. Bighwell, who is personally known to me or who has produced FL as identification.

[NOTARIAL SEAL]



[Signature]
Print Name: David Arthur Bailey Jr.
Notary Public, State of Florida
Commission #: GG 913057
My Commission Expires: Sep 15, 2023

Continuation of Memorandum
MV REALTY PBC, LLC

By: [Signature]
Name: Amanda J. Zachman, Officer and Broker

Date: _____
STATE OF FLORIDA)

COUNTY OF PALM BEACH) ss:

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 22 day of Oct, 2020, by Amanda J. Zachman, who is personally known to me or who has produced _____ as identification.

[NOTARIAL SEAL]

Signature: [Signature]
Print Name: Amanda J. Zachman
Notary Public, State of _____
Commission #: _____
My Commission Expires: _____

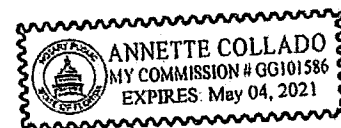


EXHIBIT C
PAYMENT AUTHORIZATION AGREEMENT

I hereby authorize MV Realty PBC, LLC, hereinafter called MV Realty, to pay the consideration in the agreement:

☒ **ZELLE TRANSFER**

I confirm the phone number or email provided is correct. I acknowledge that once a payment has been sent to the provided information below it cannot be reversed or rescinded, For added safety, MV Realty will/has initiated a small initial payment through Zelle and will require that you confirm receipt of that amount prior to MV Realty sending the balance of the funds.

Associated Zelle Phone Number or E-mail Address: [REDACTED]

☐ **E-CHECK**

I acknowledge that I am requesting my payment to be made by E-CHECK to my account associated with email address: _____

☐ **MAILED CHECK**

If requesting a paper check, please fill in the following:

Name: _____

Address: _____

☐ **ACH TRANSFER**

To ensure the electronic transfer is delivered to the correct account in a timely manner, please fill out the required information below. I acknowledge that I am requesting my payment to be made electronically to the associated accounts below. Indicated below at the depository financial institution named below, hereafter called DEPOSITORY, and to credit the same to such account. I acknowledge that the origination of ACH transactions to my account must comply with the provisions of U.S. law.

Bank Name: _____

Name on Account: _____

Routing Number: _____

Account Number: _____

Indicate if it is either ☐ Savings Account ☐ Checking Account

This authorization is to remain in full force and effect until the MV Realty has received written notification from me (or either of us) of its termination in such time, and in such manner as to afford MV Realty and the DEPOSITORY a reasonable opportunity to act on it. In the event the zelle transfer is unable to be sent, MV Realty will send payment via echeck, mailed check, or cash.

Signature: [Signature]
Name: Ray E. Brightwell

Date: 10/17/2020

Signature: _____
Name: _____

Date: _____

Signature: _____
Name: _____

Date: _____

***I would like to lower the cost of my homeowners insurance, please have Insurance Capital Partners contact me: (PLEASE CHECK ONE)**

☒ Contact me ☐ No I would not like to be contacted