

CAUSE NO. _____

PLAINTIFF(S)

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IN THE _____ COURT

vs.

DEFENDANT(S)

_____ COUNTY, TEXAS

APPLICATION FOR ORDER DIRECTING PAYMENT OUT OF THE REAL
ESTATE RECOVERY TRUST ACCOUNT

TO THE HONORABLE JUDGE OF SAID COURT:

_____, Plaintiff and judgment creditor in the captioned cause, makes this verified claim and applies to the Court for an order directing payment of judgment from the Real Estate Recovery Trust Account in accordance with Subchapter M, Chapter 1101, Texas Occupations Code, and in support of such claim, Plaintiff will show:

I.

Notice of this application for an order directing payment out of the Real Estate Recovery Trust Account has been given to the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas, 78711-2188 and to the Defendant, _____

_____ by sending to each of them a copy of this application.

II.

On _____, _____, in the above captioned cause, judgment was rendered in favor of Plaintiff and against _____, who was duly licensed by the Texas Real Estate Commission as a real estate broker or salesperson at the time of Defendant's act(s) allowing recovery were committed. The judgment was based on Defendant's act(s) which constitute a violation of Section(s) 1101.652(a)(3) or 1101.652(b) or 1101.653 (1)-(4) of The Texas Occupations Code.

III.

Plaintiff's Original Petition or written statement alleging the grounds for the judgment was filed in this Court on _____, _____, which is within two years after the date the cause of action accrued.

IV.

On _____, _____, the judgment became final. Thereafter Plaintiff caused to be issued by the clerk of this Court a writ of execution, directed to any sheriff or constable in the State of Texas. The writ was returned by the sheriff or constable of _____ County, Texas, with the notation, "nulla bona." On _____, _____, Plaintiff caused to be issued an abstract of judgment from this Court and recorded the abstract in the real property/judgment lien records of _____ County in Volume _____, Page _____ (or Clerk's No. _____).

V.

The judgment is based on facts allowing recovery under Subchapter M, Chapter 1101, Texas Occupations Code. Plaintiff is the legal owner and holder of the judgment and has perfected a judgment lien. Plaintiff is not the spouse of the judgment debtor nor a personal representative of the debtor's spouse. Plaintiff is not a real estate broker or salesperson who is seeking to recover a real estate commission. The amount of the judgment awarded to Plaintiff was:

\$ _____ in actual damages (does not include punitive, treble or other liquidated damages);
\$ _____ in attorney's fees;
\$ _____ in costs of court; and
\$ _____ in pre-judgment interest.

VI.

The judgment is accruing interest at the rate of _____% from the date of judgment. Plaintiff has received no payment in full or partial satisfaction of the judgment. The amount now owing on the judgment is \$ _____. Based on the best available information, the judgment debtor lacks sufficient attachable assets in this state or any other state to satisfy the judgment. The judgment debtor has no real or personal property or other assets liable to be sold or applied in satisfaction of the judgment. If a bankruptcy court precluded the Plaintiff from executing a judgment or perfecting a judgment lien, Plaintiff certifies that Plaintiff made a good faith effort to protect the judgment from being discharged in bankruptcy.

VII.

Plaintiff has incurred additional attorney's fees in the amount of \$_____ to the attorney who signed this application, as reasonable fees for services rendered in connection with filing and pursuing this claim and the satisfaction of the judgment.

WHEREFORE, Plaintiff requests that the Court, following hearing on this application upon due notice to the Texas Real Estate Commission and the judgment debtor, enter an order directed to the Commission requiring payment from the Real Estate Recovery Trust Account to Plaintiff in an amount found to be payable on the claim.

Respectfully Submitted,

Plaintiff or Plaintiff's attorney

VERIFICATION

STATE OF TEXAS §

COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____, who after being duly sworn, stated that he or she has personal knowledge of the facts stated in the above entitled Application for Order Directing Payment out of the Real Estate Recovery Trust Account; and that every statement contained therein is true and correct.

PLAINTIFF(S) OR PLAINTIFF'S ATTORNEY

SUBSCRIBED AND SWORN TO BEFORE ME, by the said _____, on this _____ day of _____, _____ to certify which witness my hand and official seal.

Notary Public in and for the State of Texas
My commission expires: _____

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on the Texas Real Estate Commission, and _____, Defendant, on this the _____ day of _____, _____ via:

- Certified Mail, Return Receipt Requested
- First Class Mail, U.S. Postal Service
- Hand Delivered
- Federal Express

PLAINTIFF(S) OR PLAINTIFF'S ATTORNEY