

BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION)
)
 Petitioner,)
)
 v.) No. 11-1911 RE
)
)
 BRENDA S. ADAMS,)
)
 Respondent.)

ORDER OF THE MISSOURI REAL ESTATE COMMISSION
DISCIPLINING THE REAL ESTATE LICENSE OF
BRENDA S. ADAMS

On or about February 29, 2012, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Brenda S. Adams, No. 11-1911 RE*. In that Default Decision, the Administrative Hearing Commission found that Respondent Brenda S. Adams' real estate license (license no. 1999033164) is subject to disciplinary action by the Missouri Real Estate Commission ("Commission") pursuant to § 339.100.2 (15), (16) and (19) RSMo.¹

The Commission has received and reviewed the record of the proceedings before the Administrative Hearing Commission and the Default Decision of the Administrative Hearing Commission. The record of the Administrative Hearing Commission is incorporated herein by reference in its entirety.

Pursuant to notice and §§ 621.110 and 339.100.3, RSMo, the Commission held a hearing on August 8, 2012, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action against Respondent's license. All of the members of the Commission, with the exception of Jan

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

Hunt and Doris Carlin, were present throughout the meeting. Twila Hillme participated through conference call. Further, each member of this Commission has read the Default Decision of the Administrative Hearing Commission. The Commission was represented by Assistant Attorney General Daniel Jacob. Respondent, having received proper notice and opportunity to appear, did not appear in person or through legal counsel. After being present and considering all of the evidence presented during the hearing, the Commission issues the following Findings of Facts, Conclusions of Law and Order.

Based upon the foregoing the Commission hereby states:

I.

FINDINGS OF FACT

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 §§ 339.010-339.205 and 339.710-339.855, RSMo.

2. The Commission hereby adopts and incorporates by reference the Default Decision, the Complaint upon which it was based, and the record of the Administrative Hearing Commission in *Missouri Real Estate Commission v. Brenda S. Adams, Case No. 11-1911 RE*, issued February 29, 2012, in its entirety and takes official notice thereof.

3. The Commission set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondent in a proper and timely fashion. Respondent failed to appear in person or through legal counsel at the hearing before the Commission.

4. This Commission licensed Respondent Brenda S. Adams as a real estate broker, license number 1999033164. Respondent's broker license was current at all times relevant to this proceeding.

II.

CONCLUSIONS OF LAW

5. This Commission has jurisdiction over this proceeding pursuant to §§ 621.110 and 339.100, RSMo.

6. The Commission expressly adopts and incorporates by reference the Default Decision with the Complaint upon which the Default Decision was based, issued by the Administrative Hearing Commission dated February 29, 2012, in *Missouri Real Estate Commission v Brenda S. Adams, Case No. 11-1911 RE*, takes official notice thereof, and hereby enters its Conclusions of Law consistent therewith.

7. As a result of the foregoing, and in accordance with the Administrative Hearing Commission's Default Decision dated February 29, 2012, Respondent's real estate license, number 1999033164, is subject to disciplinary action by the Commission pursuant to § 339.100.2 (15), (16) and (19), RSMo.

8. The Commission has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

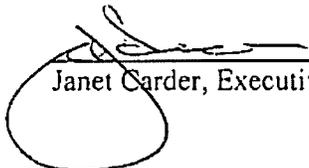
Having fully considered all the evidence before the Commission, and giving full weight to the Default Decision of the Administrative Hearing Commission, it is the ORDER of the Commission that the real estate license of Brenda S. Adams (license no. 1999033164) is hereby

REVOKED. It is further ordered that all evidence of Respondent's licensure shall be returned to the Commission within 30 days of this Order along with a Closing of a Real Estate Brokerage/Sole Proprietorship form.

The Commission will maintain this Order as an open, public record of the Commission as provided in Chapters 339, 610, and 324, RSMo.

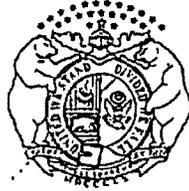
SO ORDERED, EFFECTIVE THIS 20th DAY OF August, 2012.

MISSOURI REAL ESTATE COMMISSION



Janet Carder, Executive Director

Before the
Administrative Hearing Commission
State of Missouri



MISSOURI REAL ESTATE COMMISSION,)
)
Petitioner,)
)
vs.) No. 11-1911 RE
)
BRENDA S. ADAMS,)
)
Respondent.)

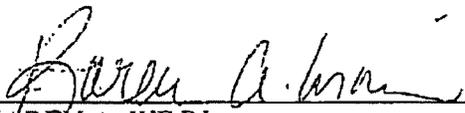
DEFAULT DECISION

On September 23, 2011, Petitioner filed a properly pled complaint seeking to discipline Respondent. Respondent was personally served with a copy of the complaint and our notice of complaint/notice of hearing on December 15, 2011.

More than thirty days have elapsed since Respondent was served. Respondent has not filed an answer or otherwise responded to the complaint. On February 27, 2012, Petitioner filed a motion to enter a default decision.

In accordance with § 621.100.2,¹ we enter a default decision against Respondent establishing that Petitioner has cause to discipline Respondent under § 339.100.2(15), (16) and (19). This default decision shall become final and will not be set aside unless a motion is filed with this Commission within thirty days of the date of this order establishing good cause for not responding to the complaint and stating facts constituting a meritorious defense.

SO ORDERED on February 29, 2012.


KAREN A. WINN
Commissioner

¹RSMo 2000, as amended by H.B. No. 265, effective August 28, 2011.

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

SEP 23 2011

ADMINISTRATIVE HEARING
COMMISSION

MISSOURI REAL ESTATE COMMISSION)
3605 Missouri Blvd.)
P.O. Box 1339)
Jefferson City, Missouri 65102-1339,)

Petitioner,)

v.)

BRENDA S. ADAMS)
124 W Jackson Road)
Webster Groves, MO 63119,)

Respondent.)

No. 11-1911 RE

COMPLAINT

Petitioner, the Missouri Real Estate Commission ("MREC"), by and through the undersigned counsel, states for its cause of action against Respondent Brenda S. Adams:

1. The MREC is an agency of the State of Missouri created and existing pursuant to § 339.120, RSMo Supp. 2010,¹ for the purpose of executing and enforcing the provisions of §§ 339.010 to 339.180 and §§ 339.710 to 339.860, RSMo (as amended), relating to real estate salespersons and brokers.

2. Adams is licensed by the MREC as a real estate broker, license no. 1999033164. Adams's license was current and active at all time relevant herein. At all

¹All statutory citations are to the Revised Statutes of Missouri 2000, unless otherwise noted.

times relevant herein, Adam's address registered with the MREC was 124 W. Jackson Road, St. Louis, MO 63119.

3. By the following communications the MREC attempted to contact Adams regarding an audit of her real estate business activities, as follows:

- a. By letter dated July 6, 2010, sent to 124 W. Jackson Road, St. Louis, MO 63119, the MREC advised that the MREC would be conducting an audit of Adams's real estate activities.
- b. On July 12, 2010, the MREC attempted to contact Adams by telephone and left a message on the machine.
- c. On July 16, 2010, the MREC attempted to contact Adams by telephone and left a message on the machine.
- d. On July 22, 2010, the MREC attempted to contact Adams by telephone and left a message on the machine.
- e. By letter dated October 13, 2010, sent to 124 W. Jackson Road, Webster Groves, MO 63119, the MREC again advised that it would be conducting an audit and advising Adams to contact the MREC within 10 days.
- f. By letter dated December 22, 2010, sent to 124 W. Jackson Road, Webster Groves, MO 63119, the MREC again advised that it would

be conducting an audit and advised Adams to contact the MREC within 30 days.

- g. By letter dated January 28, 2011, sent to 124 W. Jackson Road, Webster Groves, MO 63119, the MREC notified Adams that they would be conducting their audit at 9:00 a.m. on March 2, 2011.
- h. On February 9, 2011, Adams signed the certified mail receipt for the MREC's January 28, 2011 letter.
- i. At 9:00 a.m., March 2, 2011, the MREC's examiner arrived at Adam's address to conduct the audit. The examiner waited approximately thirty minutes after knocking and ringing the door bell but no one answered.

3. Adams failed to respond to the MREC's attempts to contact her.

4. Adams's failure to respond and failure to allow the MREC to conduct an audit of her real estate activity is in violation of § 339.105.3, RSMo, 20 CSR 2250-8.160 and 20 CSR 2250-8170.

5. Section 339.105.3, RSMo Supp. 2010, states:

In conjunction with each escrow or trust account a broker shall maintain books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The account and other records shall be provided to the commission and its duly authorized agents for inspection at all times during regular business hours at the broker's usual place of business.

6. Rule 20 CSR 2250-8.160, requiring that a broker retain records and allow the MREC access to review them, 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.

7. Rule 20 CSR 2250-8.170, requiring real estate brokers to respond in writing to MREC written inquiries, 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.

8. Section 339.040.1, RSMo Supp. 2010, states:

Licenses shall be granted only to persons who present, and corporations, associations, partnerships, limited partnerships, 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 salesperson in such a manner as to safeguard the interest of the public.

10. Adam's conduct, as stated above, constitutes a lack of good moral character, a reputation for honesty, integrity, and fair dealings, and a lack of competence to transact the business of a broker in such a manner as to safeguard the interest of the public.

11. Adams's failure to respond and failure to allow the MREC to audit her real estate activity records constitutes untrustworthy, improper and/or fraudulent business deals and/or bad faith, incompetence, misconduct and gross negligence.

12. Based on Adams's conduct, as stated above, cause exists to discipline Adams's real estate broker license pursuant to § 339.100.2(15), (16) and (19), RSMo Supp. 2010, which states:

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:

(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 of 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;

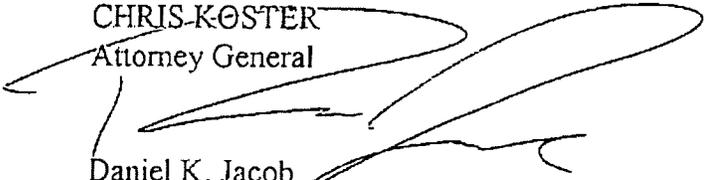
.....

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

WHEREFORE, Petitioner respectfully requests this Commission to conduct a hearing in this cause pursuant to Chapter 621, RSMo, and thereafter to issue its findings of fact and conclusions of law determining that Petitioner may take disciplinary action against the real estate license of Brenda S. Adams for violations of Chapter 339, RSMo, and the regulations promulgated thereunder, and for such other and further relief this Commission deems just and proper.

Respectfully submitted,

CHRIS KOSTER
Attorney General



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