

BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION)
)
) Petitioner,)
)
) v.) No. 11-2308 RE
)
)
) PETER B. BARSOS,)
)
) Respondent.)

ORDER OF THE MISSOURI REAL ESTATE COMMISSION
DISCIPLINING THE REAL ESTATE LICENSE OF
PETER B. BARSOS

On or about June 5, 2012, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Peter B. Barsos, No. 11-2308 RE*. In that Default Decision, the Administrative Hearing Commission found that Respondent Peter B. Barsos's real estate license (license no. 1999124540) is subject to disciplinary action by the Missouri Real Estate Commission ("Commission") pursuant to § 339.100.2 (10), (15), (16), (18), (19) and (25) 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 December 12, 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

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

Doris Carlin, were present throughout the meeting. 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. Peter B. Barsos, Case No. 11-2308 RE*, issued June 5, 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 Peter B. Barsos as a real estate broker-officer, license number 1999124540. Respondent's broker-officer 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 June 5, 2012, in *Missouri Real Estate Commission v Peter B. Barsos, Case No. 11-2308 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 June 5, 2012, Respondent's real estate license, number 1999124540, is subject to disciplinary action by the Commission pursuant to § 339.100.2 (10), (15), (16), (18), (19) and (25), RSMo.

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

III.

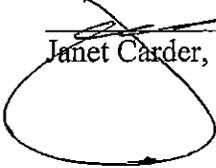
ORDER

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 Peter B. Barsos (license no. 1999124540) is hereby **REVOKED**. All evidence of licensure shall be immediately returned to the Commission.

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 2nd DAY OF January, 2013.

MISSOURI REAL ESTATE COMMISSION



Janet Carder, Executive Director

Before the
Administrative Hearing Commission
State of Missouri



MISSOURI REAL ESTATE COMMISSION,)

Petitioner,)

vs.)

No. 11-2308 RE)

PETER B. BARSOS ,)

Respondent.)

DEFAULT DECISION

On November 28, 2011, Petitioner filed a properly pled complaint seeking to discipline Respondent. Respondent was served with a copy of the complaint and our notice of complaint/notice of hearing by personal service on February 17, 2012.

More than thirty days have elapsed since Respondent was served. Respondent has not filed an answer or otherwise responded to the complaint. On May 4, 2012, Petitioner filed a motion to enter a default decision. We gave Respondent until May 23, 2012, to respond, but he did not respond.

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(10), (15), (16), (18), (19) and (25), RSMo Supp. 2010. 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 June 5, 2012.

A handwritten signature in black ink, appearing to read "Mary E. Nelson", written over a horizontal line.

MARY E. NELSON
Commissioner

¹RSMo Supp. 2011.

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

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

Petitioner,)

v.)

PETER B. BARSOS)
1920 Sidney St.)
St. Louis, MO 63104)
Telephone: 314-771-1100)

Respondent.)

FILED

NOV 28 2011

ADMINISTRATIVE HEARING
COMMISSION

Case No. 11-2308 RB

COMPLAINT

Petitioner, the Missouri Real Estate Commission (MREC), by and through the Missouri Attorney General's office, states for its cause of action as follows:

1. The MREC is an agency of the State of Missouri created and existing pursuant to § 339.120, RSMo,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.

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

2. Respondent Peter B. Barsos ("Barsos") is licensed by the MREC as a real estate broker officer, license no. 1999124540. Barsos's license is, and was at all relevant times herein, current and active.

3. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 339.100.2, RSMo Supp. 2010.

4. Section 339.100.2, RSMo Supp. 2010, provides in part:

The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621 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:

.....

(10) Obtaining a certificate or registration of authority, permit or license for himself or herself or anyone else by false or fraudulent representation, fraud or deceit;

.....

(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;

.....

(18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for

any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

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

(25) Making any material misstatement, misrepresentation, or omission with regard to any application for licensure or license renewal. As used in this section, "material" means important information about which the commission should be informed and which may influence a licensing decision[.]

Count I
Criminal Guilty Pleas

5. The MREC reincorporates paragraphs one through four of this Complaint.

6. On or about May 18, 2003, Barsos committed the crime of Pursuing,

Taking, Killed, Possessed or Disposed of Wildlife Illegally, a class A misdemeanor, in

violation of § 252.040, RSMo, which states:

No wildlife shall be pursued, taken, killed, possessed or disposed of except in the manner, to the extent and at the time or times permitted by such rules and regulations; and any pursuit, taking, killing, possession or disposition thereof, except as permitted by such rules and regulations, are hereby prohibited. Any person violating this section shall be guilty of a misdemeanor except that any person violating any of the rules and regulations pertaining to record-keeping requirements imposed on licensed fur buyers and fur dealers shall be guilty of an infraction and shall be fined not less than ten dollars nor more than one hundred dollars.

7. On or about August 18, 2003, Barsos pled guilty in Franklin County Circuit Court, State of Missouri, to Pursuing, Taking, Killed, Possessed or Disposed of Wildlife Illegally, as defined by § 254.040, RSMo, for his conduct alleged herein.

8. On or about September 26, 2008, Barsos committed the crime of Possession/Discharge of a Loaded Firearm/Projectile Weapon While Intoxicated, a class D felony, in violation of § 571.030.1(5), RSMo Supp. 2008, which states in pertinent part:

1. A person commits the crime of unlawful use of weapons if he or she knowingly:

...

(5) Possesses or discharges a firearm or projectile weapon while intoxicated[.]

9. On or about March 1, 2010, Barsos pled guilty in the 11th Judicial Circuit, state of Missouri, to the crime of Possession/Discharge of a Loaded Firearm/Projectile Weapon While Intoxicated, as defined by § 571.030, RSMo Supp. 2008, for his conduct alleged herein.

10. On or about September 26, 2008, Barsos committed the crime of Driving While Intoxicated, a class B misdemeanor, in violation of § 577.010, RSMo, which states:

1. A person commits the crime of "driving while intoxicated" if he operates a motor vehicle while in an intoxicated or drugged condition.

2. Driving while intoxicated is for the first offense, a class B misdemeanor. . .

11. On or about March 1, 2010, Barsos pled guilty in the 11th Judicial Circuit, State of Missouri, to the crime of Driving While Intoxicated, as defined by § 577.010, RSMo, for his conduct alleged herein..

12. On or about July 23, 2009, Barsos committed the crime of Driving While Intoxicated, in violation of § 577.010, RSMo, as stated above.

13. On or about June 1, 2010, Barsos pleaded guilty in the St. Charles Circuit Court, State of Missouri, to Driving While Intoxicated, as defined by § 577.010, RSMo, for his conduct on July 23, 2009 as alleged herein.

14. Section 339.040, RSMo Supp. 2010, states in pertinent part:

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[.]

15. Barsos' commissions of the crimes, as alleged in this count, constitutes a lack of good moral character and/or lack of a good reputation for honesty, integrity and/or fair dealing.

16. Barsos commission and plea of guilty to the crimes, as alleged in this count, are crimes of which are reasonably related to the qualifications, functions and/or duties to his licensed profession and are crimes of which involve moral turpitude.

17. Barsos commissions of the crimes, as alleged in this count, provides cause to discipline his license pursuant to § 339.100.2(16) and (18), RSMo Supp. 2010.

Count II
Misrepresentation on Renewal Application

18. The MREAC reincorporates paragraphs one through seventeen of this Complaint.

19. On June 30, 2010, Barsos submitted a renewal application to the MREC. On his renewal application he answered “yes” to the question “[h]ave you been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this or any other state or of the United States whether or no sentence was imposed, including suspended imposition of sentence, suspended execution of sentence and misdemeanor charges that you have not previously disclosed to this Commission?”

20. Barsos responded that he had been convicted of Driving While Intoxicated in St. Charles, Missouri, but failed to mention his plea of guilty to: Pursuing, Taking, Killed, Possessed or Disposed of Wildlife Illegally; Possession/Discharge of a Loaded

Firearm/Projectile Weapon While Intoxicated; and his second Driving While Intoxicated charge.

21. Barsos' failure to disclose three guilty pleas on his 2010 renewal application constitutes a lack of good moral character, good reputation for honesty, integrity and/or fair dealing.

22. Barsos' failure to disclose three guilty pleas on his 2010 renewal application constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith and/or incompetence, misconduct, and/or gross negligence

23. Barsos' failure to disclose three guilty pleas on his 2010 renewal application allowed him to obtain a license for himself by a false and/or fraudulent representation, fraud and/or deceit.

24. Barsos' failure to disclose three guilty pleas on his 2010 renewal application constitutes the making of a material misstatement, misrepresentation and/or omission with regard to an application for license renewal.

25. Barsos' failure to disclose three guilty pleas on his 2010 renewal applications provides cause to discipline his license pursuant to § 339.100.2(10), (16), (19) and (25), RSMo Supp. 2010.

Count III
Lack of Corporate Good Standing

26. The MREAC reincorporates paragraphs one through twenty five of this Complaint.

27. On or about August 10, 2010, the MREC mailed Respondent a letter indicating that he had been randomly chosen to be audited by the MREC. The letter indicated that an examiner with the MREC would be conducting the audit at Respondent's place of business within the next 30 days.

28. On or about August 31, 2010, the MREC mailed Respondent a letter confirming the MREC's knowledge, provided by Respondent, that Respondent had not conducted any real estate activity within the last twelve months. The letter informed Respondent that the MREC's audit may be able to be completed through the use of an affidavit.

29. The MREC's August 31, 2010, letter requested that Respondent complete an enclosed affidavit and return it to the MREC within 30 days.

30. On or about October 18, 2010, approximately 44 days after the MREC's August 31, 2010 letter, the MREC received Respondent's Affidavit.

31. The MREC's subsequently performed their audit which revealed that as of March 21, 2008, Barsos Realty Inc. was not a corporation in good standing with the Missouri Secretary of State's Office due to the corporation's failure to file a correct and current annual report.

32. Rule 20 CSR 2250-4.070(3)(F), states:

(3) At the time of issuance of a partnership, association, or corporation license, the applicant shall make application to the commission on a form approved by the commission which shall include the following:

...

(F) A statement that the information furnished is complete, true, and correct in all respects and that the entity is currently in good standing with the secretary of state. The commission must be notified in writing with-in ten (10) days of every change in partnership, association, or corporation which changes any information furnished or causes the information to be incomplete. The designated broker for the firm shall be responsible for the notification.

33. On or about February 16, 2011, the MREC mailed Respondent a letter, to his address as was currently registered with the MREC, which stated the violations found during the MREC's audit of Barsos Realty Inc. The letter requested that Respondent response within thirty days.

34. Respondent did not response within thirty days to the MREC's February 16, 2011 letter.

35. On or about April 4, 2011, the MREC mailed Respondent a second letter, to his address as was currently registered with the MREC, indicating that as of that day, the MREC had not received Respondent's response to the MREC's February 16, 2011 letter. The letter requested that Respondent respond within ten days to their February 16 and April 4, 2011 letters.

36. Rule 20 CSR 2250-8.170(1), states:

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.

37. Barsos' failure to keep his real estate association, Barsos Realty Inc., in good standing with the Missouri Secretary of State, and Barsos' failure to notify the MREC of such change within ten days is in violation of 20 CSR 2250-4.070(3)(F).

38. Respondent's failure to respond to the MREC's inquiries to maintain the corporation in good standing with the Missouri Secretary of State, and to comply with the statutes and rules governing the real estate profession, demonstrates a lack of competence to transact the business of a broker in such a manner as to safeguard the interest as required by § 339.040.1(3), RSMo Supp. 2010, which 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:

...

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

39. Respondent's failure to reply, in writing, within 30 days of the MREC's request is in violation of 20 CSR 2250-8.170(1).

40. Respondent's violation of rules and failure to show competence, as stated in this count, provides cause to discipline his license pursuant to § 339.100.2(15) and (16), RSMo Supp. 2010.

Count IV
Misrepresentation on Corporate Renewal Application

41. The MREAC reincorporates paragraphs one through forty of this Complaint.

42. On or about June 27, 2008, Respondent completed and submitted an application to renew a real estate corporation license. On the application Respondent marked the box "yes" to the question "[i]s this corporation in good standing with the Missouri Secretary of State's office," when the corporation was not actually in good standing at that time.

43. On or about June 30, 2010, Respondent completed and submitted an application to renew a real estate corporation license. On the application Respondent marked the box "yes" to the question "[i]s this corporation in good standing with the Missouri Secretary of State's office," when the corporation was not actually in good standing at that time.

44. Barsos' false statements on the 2008 and 2010 real estate corporation renewal applications demonstrates a lack of good moral character and a lack of a reputation for honesty, integrity, and fair dealing.

45. Barsos' false statements on the 2008 and 2010 real estate corporation renewal applications constitutes untrustworthy, improper and/or fraudulent business dealings, bad faith and/or incompetence, misconduct, or gross negligence.

46. Barsos' failure to disclose that his corporation was not in good standing on his 2010 renewal application constitutes the making of a material misstatement, misrepresentation and/or omission with regard to an application for license renewal.

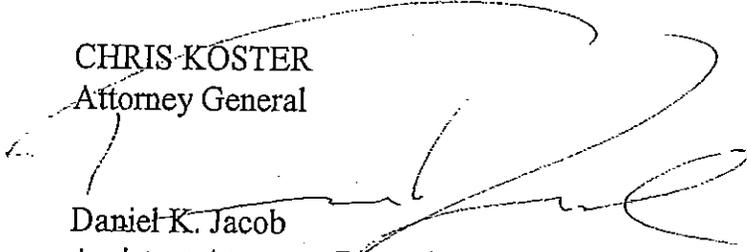
47. Barsos' failure to disclose that his corporation was not in good standing on his 2010 renewal applications provides cause to discipline his license pursuant to § 339.100.2(10), (16), (19) and (25), RSMo Supp. 2010.

48. Barsos' conduct, as described in this count, provides cause to discipline his license pursuant to § 339.100.2(10), (16), (19) and (25), RSMo Supp. 2010.

WHEREFORE, Petitioner requests that the Administrative Hearing Commission, under the provisions of Chapter 621, RSMo, issue its Findings of Fact and Conclusions of Law determining that Petitioner may take disciplinary action against the license of Respondent, Peter B. Barsos, as a real estate broker officer for the violations noted above, and for such other relief as the Commission deems appropriate.

Respectfully submitted,

CHRIS KOSTER
Attorney General



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Assistant Attorney General
Missouri Bar No. 62164

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