**BEFORE THE MISSOURI REAL ESTATE COMMISSION**

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| MISSOURI REAL ESTATE COMMISSION, | ) | |
| | ) | |
| Petitioner, | ) | |
| | ) | |
| v. | ) | No. 12-1792 RE |
| | ) | |
| LESLIE R. DUESTERHAUS | ) | |
| and | ) | |
| DUESTERHAUS REALTY, INC., | ) | |
| | ) | |
| Respondents. | ) | |

**FINDINGS OF FACT, CONCLUSIONS OF LAW**
**AND DISCIPLINARY ORDER**

On or about January 29, 2013, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Leslie R. Duesterhaus and Duesterhaus Realty, Inc.*, No. 12-1792 RE. In that Default Decision, the Administrative Hearing Commission found that Respondents' Leslie R. Duesterhaus' real estate broker officer license (license no. 1999019415) and Duesterhaus Realty, Inc.'s real estate corporation license (license no. 000003986) are subject to disciplinary action by the Commission pursuant to § 339.100.2 (15), (16) and (19) RSMo.[1]

The Missouri Real Estate Commission ("MREC") 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 MREC held a hearing on June 5, 2013, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson

[1]All Statutory References are to the Revised Statutes of Missouri, 2000, as amended, unless otherwise indicated.

City, Missouri, for the purpose of determining the appropriate disciplinary action against Respondents' licenses. All of the members of the MREC, with the exception of Rosemary Vitale, were present throughout the meeting. Twila Hillme participated through conference call. Further, each member of the MREC that was present for the hearing has read the Default Decision of the Administrative Hearing Commission. The MREC was represented by Assistant Attorney General Ross A. Brown. Although properly and timely notified, Respondents were not present and were not represented by counsel. After being present and considering all of the evidence presented during the hearing, the MREC issues these following Findings of Facts, Conclusions of Law and Order.

Based upon the foregoing the MREC hereby states:

**I.**

**FINDINGS OF FACT**

1. The MREC 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 MREC 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 MREC hereby adopts and incorporates by reference the findings of fact of the Default Decision and record of the Administrative Hearing Commission in *Leslie R. Duesterhaus and Duesterhaus Realty, Inc.*, No. 12-1792 RE, in its entirety and takes official notice thereof and hereby enters its findings of fact consistent therewith.

3. The MREC set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondents in a proper and timely fashion.

4. The MREC issueded Respondents Leslie R. Duesterhaus' real estate broker officer license 1999019415 and Duesterhaus Realty Inc.'s real estate corporation license 000003986. Respondents' licenses were current at all times relevant to this proceeding.

## II.

## CONCLUSIONS OF LAW

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

6. The MREC expressly adopts and incorporates by reference the conclusions of law and Default Decision issued by the Administrative Hearing Commission dated January 29, 2013, in *Missouri Real Estate Commission v. Leslie R. Duesterhaus and Duesterhaus Realty, Inc.*, No. 12-1792 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 January 29, 2013, Respondents' real estate licenses are subject to disciplinary action by the MREC pursuant to § 339.100.2 (15), (16) and (19) RSMo.

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

## III.

## ORDER

Having fully considered all the evidence before the MREC, and giving full weight to the Default Decision of the Administrative Hearing Commission, it is the **ORDER** of the MREC that Leslie R. Duesterhaus' real estate broker officer license (license no. 1999019415) and Duesterhaus Realty, Inc.'s real estate corporation license (license no. 000003986) are hereby

**REVOKED**. All evidence of Respondents' licensure shall be returned to the MREC within 30 days of this Order along with a Closing of a Real Estate Brokerage/Sole Proprietorship form.

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

**SO ORDERED, EFFECTIVE THIS 10th DAY OF June, 2013**

MISSOURI REAL ESTATE COMMISSION

Janet Carder, Executive Director

# Before the
# Administrative Hearing Commission
# State of Missouri

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| MISSOURI REAL ESTATE COMMISSION, | ) | |
| | ) | |
| Petitioner, | ) | |
| | ) | |
| vs. | ) | No. 12-1792 RE |
| | ) | |
| LESLIE R. DUESTERHAUS and | ) | |
| DUESTERHAUS REALTY, INC., | ) | |
| | ) | |
| Respondents. | ) | |

**DEFAULT DECISION**

On October 1, 2012, Petitioner filed a properly pled complaint seeking to discipline Respondents. Respondents were served with a copy of the complaint and our notice of complaint/notice of hearing by certified mail on October 10, 2012.

More than thirty days have elapsed since Respondents were served. Respondents have not filed an answer or otherwise responded to the complaint. On November 28, 2012, Petitioner filed a motion to enter a default decision. We gave Respondents until December 10, 2012, to respond, but they did not respond.

In accordance with § 621.100.2,[1] we enter a default decision against Respondents establishing that Petitioner is entitled to the relief requested in the complaint. This default decision shall become final and may 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 January 29, 2013.

NIMROD T. CHAPEL, JR.
Commissioner

[1]RSMo Supp. 2012.

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

OCT 01 2012

ADMINISTRATIVE HEARING COMMISSION

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|---|---|---|
| MISSOURI REAL ESTATE COMMISSION<br>3605 Missouri Boulevard<br>P.O. Box 1339<br>Jefferson City, MO 65102<br><br>Petitioner, | ) | |
| v. | ) | No. 12-1792 -RE |
| LESLIE R. DUESTERHAUS<br>336 West Fairway Drive<br>Quincy, IL 62305<br>Telephone: 217-224-3531<br><br>AND<br><br>DUESTERHAUS REALTY, INC.<br><br>Serve Upon:<br>Gail D. Murphy<br>6317 N.E. Antioch Road<br>Suite 104<br>Kansas City, MO 64119<br><br>Telephone: 217-224-3531<br><br>Respondents. | ) | |

COMPLAINT

Petitioner, Missouri Real Estate Commission, by and through its attorney, the Attorney General of the State of Missouri and for its cause of action states:

1. Petitioner, Missouri Real Estate Commission ("MREC"), is an agency of the State of Missouri created and existing pursuant to § 339.120, RSMo. Supp. 2011, and is charged with the duty of licensing and registering real estate licensees in this state and of executing and enforcing the provisions of Chapter 339, Real Estate Agents, Brokers, Appraisers and Escrow Agents, RSMo.

2. The Respondent, Leslie R. Duesterhaus ("Duesterhaus"), is licensed by Petitioner as a real estate broker officer, no. 1999019415, and Respondent, Duesterhaus Realty, Inc ("Duesterhaus Realty") is licensed as a real estate corporation, no. 000003986. Both licenses were, and at all times hereinafter mentioned, current and active, until they expired on June 30, 2012.

3. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to § 621.045, RSMo Supp. 2011, and § 339.532.2, RSMo 2011.

4. Duesterhaus Realty was administratively dissolved by the Secretary of State's Office on September 2, 2009 and again on August 29, 2012.

5. Neither Duesterhaus nor Duesterhaus Realty notified the MREC within ten days of the administrative dissolution of Duesterhaus Realty as required by regulation.

6. On or about June 29, 2010, Duesterhaus submitted an application to renew Duesterhaus Realty's license as a real estate corporation. On the application, Duesterhaus answered "No" to the question, "Is this real estate company in good standing with the Missouri Secretary of State's office?"

7. On or about November 5, 2010, the MREC sent a letter to Duesterhaus and Duesterhaus Realty, at Duesterhaus Realty's registered address 6317 NE Antioch RD, STE 104, Kansas City, MO 64119. The letter informed Duesterhaus that he had 30 days to submit proof that Duesterhaus Realty was in good standing with the Secretary of State's office. Duesterhaus did not respond within thirty days of this letter. On or about February 2, 2011, Duesterhaus responded to this letter after it was mailed again on January 3, 2011, and stated that he was working to fix the problem.

8. On or about April 11, 2011, the MREC sent another letter to Duesterhaus and Duesterhaus Realty at Duesterhaus Realty's aforementioned registered address. The letter informed Duesterhaus that he had 30 days to fix Duesterhaus Realty's bad standing with the Secretary of State. The letter further informed Duesterhaus if the situation could not be fixed then Duesterhaus needed to close Duesterhaus Realty and change his license to an individual broker. Duesterhaus responded on or about May 17, 2011, and stated that the problem was still being worked on.

9. On or about July 12, 2011, the MREC sent another letter to Duesterhaus and Duesterhaus Realty at Duesterhaus Realty's registered address. The July 12 letter stated the same information as the April 11 letter. Duesterhaus responded on or about August 4, 2011, and stated that the problem was still being worked on.

10. Cause exists to discipline Duesterhaus' and Duesterhaus Realty's licenses to practice as a real estate licensees pursuant to § 339.100.2, RSMo Supp. 2011, which states in pertinent part:

> 2. 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:
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> . . . . . .
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> (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*;
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> (16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;
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> . . . . .
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> (19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

11. Regulation 20 CSR 2250-4.070 states in pertinent part:

> . . . . .
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> (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 within ten (10) days of every change in a 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.

12. Regulation 20 CSR 2250-8.020, regarding Broker Supervision states in pertinent part:

(1) Individual brokers, designated brokers, and office managers/supervising brokers shall be responsible for supervising the real estate related activities including the protection of any confidential information as defined under 339.710.8, RSMo of all licensed and unlicensed persons associated with them, whether in an individual capacity or through a corporate entity, association or partnership.

13. Regulation 20 CSR 2250-8.170 states in pertinent part:

(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.

14. Section 339.040, RSMo Supp. 2011, states in pertinent part:

1. 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.

15. Based upon the conduct described above, failing to respond to the MREC's November 5, 2010, letter within 30 days, Duesterhaus' and Duesterhaus Realty's are in violation of 20 CSR 2250-8.170, a lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860. Thus, cause exist to discipline the licenses of Duesterhaus and Duesterhaus Realty pursuant to §339.100.2(15), RSMo Supp. 2011.

16. Based upon the conduct described above, Duesterhaus Realty's failure to be in good standing with the Missouri Secretary of State's office and failing to report such to the MREC within 10 days, and failure to notify of change in information provided in the original application, Duesterhaus and Duesterhaus Realty are in violation of 20 CSR 2250-4.070(3)(F), a lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860. Thus, cause exist to discipline the licenses of Duesterhaus and Duesterhaus Realty pursuant to §339.100.2(15) RSMo Supp. 2011.

17. Based on the conduct described above, Duesterhaus' and Duesterhaus Realty's failure to respond to the MREC within thirty days to its November letter, failure to notify the MREC of the administrative dissolution of Duesterhaus Realty within ten days twice, and to

keep Duesterhaus Realty in good standing with the Secretary of State's Office, show that Duesterhaus and Duesterhaus Realty are not competent enough to transact business in a manner to safeguard the public and thus, is an act which would otherwise be grounds for the commission to refuse to issue a license under § 339.040.1, RSMo Supp. 2011, which provides cause to discipline Duesterhaus' and Duesterhaus Realty's licenses under §339.100.2(16), RSMo Supp. 2011.

18. As described in the conduct above, Duesterhaus' and Duesterhaus Realty's failure to respond to the MREC within thirty days and to notify the MREC twice of the administrative dissolution of Duesterhaus Realty by the Secretary of State's Office is conduct that can be construed as misconduct and/or improper business dealings. Thus, cause exists to discipline Duesterhaus' and Duesterhaus Realty's licenses pursuant to § 339.100.2(19), RSMo. Supp. 2011.

19. Cause exists to discipline the licenses of Duesterhaus and Duesterhaus Realty pursuant to §339.100.2(15), (16), and (19), RSMo Supp. 2011.

WHEREFORE, Petitioner respectfully requests this Commission to conduct a hearing in this cause pursuant to Chapter 621, as amended, and thereafter to issue its findings of fact, conclusions of law, and decision that Respondents' real estate licenses are subject to disciplinary action under § 339.100.2, RSMo Supp. 2011, by Petitioner, Missouri Real Estate Commission, for violations of Chapter 339, RSMo.

Respectfully submitted,

CHRIS KOSTER
Attorney General

Ross A. Brown
Assistant Attorney General
Missouri Bar No. 62771

Supreme Court Building
207 West High Street
P.O. Box 899
Jefferson City, MO 65102
Telephone: 573-751- 4087
Telefax: 573-751-5660

Attorneys for Petitioner