BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 12-1855 RE
	)	
MICHAEL LITZ	)	
and	)	
BELLINGTON PROPERTIES, 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. Michael Litz and Bellington Properties, Inc.,* No. 12-1855 RE. In that Default Decision, the Administrative Hearing Commission found that Respondents' Michael H. Litz's real estate broker officer license (license no. 1999022364) and Bellington Properties, Inc.'s real estate corporation license (license no. 000003858) are subject to disciplinary action by the Commission pursuant to § 339.100.2 (3), (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 Edwin R. Frownfelter. Following proper and timely notice Respondent Litz appeared via telephone with legal counsel, Sam E. Poston present at the MREC office. Following proper and timely notice, Respondent Bellington Properties, Inc. was present through legal counsel, Sam E. Poston. 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 *Michael Litz and Bellington Properties, Inc.,* No. 12-1855 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 issued Michael H. Litz's real estate broker officer license 1999022364 and Bellington Properties, Inc.'s real estate corporation license 000003858. Respondents' licenses were current at all times relevant to this proceeding.

5. Respondent Litz testified that he is the President and most responsible officer of Bellington Properties, Inc. Litz testified as to his practice over the years. Litz testified that he did not purposely ignore the compliant that he had been understaffed; that he had taken on duties that he had never done before; that the owner of the property for which the $950 security deposit was owed had gone out of business; that Litz had settled with the complainant for a payment of $500; that Bellington Properties, Inc. does not have an escrow account and that Litz had paid the $500 settlement out of his own funds.

II.

CONCLUSIONS OF LAW

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

7. 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. Michael Litz and Bellington Properties, Inc.*, No. 12-1855 RE, takes official notice thereof, and hereby enters its conclusions of law consistent therewith.

8. 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 (3), (15), (16) and (19), RSMo.

9. 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 Michael H. Litz's real estate broker officer license (license no. 1999022364) and Bellington Properties, Inc.'s real estate corporation license (license no. 000003858) 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 18th DAY OF June, 2013

MISSOURI REAL ESTATE COMMISSION

Janet Carder, Executive Director

Before the
Administrative Hearing Commission
State of Missouri

MISSOURI REAL ESTATE COMMISSION,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. 12-1855 RE
	)	
MICHAEL LITZ and BELLINGTON PROPERTIES, INC.,	)	
	)	
	)	
Respondents.	)	

DEFAULT DECISION

On October 15, 2012, Petitioner filed a properly pled complaint seeking to discipline Respondenst. Respondents were served with a copy of the complaint and our notice of complaint/notice of hearing by personal service on November 27, 2012.

More than thirty days have elapsed since Respondents were served. Respondents have not filed an answer or otherwise responded to the complaint.

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.

Karen A. Winn

KAREN A. WINN
Commissioner

[1]RSMo Supp. 2012.

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

OCT 15 2012

ADMINISTRATIVE HEARING COMMISSION

Missouri Real Estate Commission 3650 Missouri Boulevard P.O. Box 339 Jefferson City, MO 65102-1339, Petitioner,	)	
v.	)	Case #: 12-1855 RE
Michael H. Litz 2221 South Warson Saint Louis, Missouri 63124 Telephone: 314-725-3329 and Bellington Properties Inc. 226 South Meramec Avenue Saint Louis, Missouri 63105 Telephone: 314-725-3320 Respondents	)	

Serve Bellington Properties, Inc., by Registered Agent: Catherine Breville, 226 S. Meramec, Suite 100, Clayton Missouri 63105

COMPLAINT

Petitioner, Missouri Real Estate Commission, by and through the Attorney General of the State of Missouri, and for its cause of action against Respondents, Michael H. Litz and Bellington Properties Inc., states the following:

1. The Missouri Real Estate Commission ("MREC") is an agency of the State of Missouri, created and established pursuant to Section 339.120, RSMo,[1] for the purpose of executing and enforcing the provisions of Chapter 339, RSMo, Real Estate Agents, Real Estate Brokers, Appraisers and Escrow Agents.

2. Respondent, Michael H. Litz (Litz), is an adult individual whose registered address is 2221 South Warson, Saint Louis, Missouri 63124, and who holds a Missouri license as real estate broker, license No. 1999022364, which expired June 30, 2012, but was current and active at the time of the events described below.

3. Respondent Bellington Properties, Inc. ("Bellington"), is a Missouri corporation whose registered agent is Catherine Breville, 226 S. Meramec, Suite 100, Clayton Missouri 63105, which holds a real estate corporation license from the MREC, no. 000003858, which expired June 30, 2012, but was current and active at the time of the events described below. The designated broker for Bellington is Michael H. Litz.

4. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to Section 621.045, RSMo, and Section 339.120, RSMo.

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[1] All statutory citations are to the 2010 Revised Statutes of Missouri unless otherwise noted.

Applicable Law

5. Section 339.100.2, RSMo, states in pertinent 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:
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> * * *
>
> (3) Failing within a reasonable time to account for or to remit any moneys, valuable documents or other property, coming into his or her possession, which belongs to others;
>
> * * *
>
> (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 . . .

6. The MREC has promulgated a valid rule codified at 20 CSR 2250-8.170, which 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.

FACTS SUPPORTING CAUSE FOR DISCIPLINE

7. On or about January 17, 2007, John Skae signed a lease prepared by Leonmarie Benner, an agent with Bellington Realty, Inc., to lease a house at 1090 Kinstern, St. Louis, Missouri.

8. On January 15, 2007, Skae paid a security deposit of $950 to Bellington.

9. On February 20, 2009, Skae renewed the lease with Bellington for two years, expiring March 31, 2011.

10. Skae's lease expired March 31, 2011. At that point the property was in foreclosure, and Skae moved out at the end of his lease.

11. Skae requested return of his security deposit in several visits and telephone calls to Bellington.

12. Skae specifically left messages for Litz, requesting that Litz refund his security deposit. Litz did not return Skae's calls.

13. Skae contacted an attorney, Daniel Fort, who also made telephone calls to Bellington requesting refund of the security deposit. Litz

did not return Fort's calls nor did he refund the security deposit on Fort's request.

14. Litz and Bellington never refunded Skae's security deposit.

15. On September 29, 2011, the MREC received a Sworn Statement of Complaint from John D. Skae against Litz and Bellington Properties, Inc.

16. By letter dated September 29, 2011, the MREC forwarded a copy of the Sworn Statement of Complaint to Litz and requested that he respond regarding the allegations contained in the complaint.

17. Litz did not respond to the MREC's September 29, 2011 letter.

18. On November 9, 2011, the MREC sent Litz a follow-up letter again requesting that he respond to the September 29, 2011 letter and advising him that failure to respond would be a violation of 20 CSR 2250-8.170(1).

19. Litz did not respond to the MREC's November 9, 2011 letter.

20. Litz's and Bellington's failure to refund or account for Skae's security deposit upon termination of the lease and demand for refund constitutes cause to discipline Litz's real estate broker officer license and Bellington's real estate corporation license pursuant to Section 339.100.2(3), RSMo.

21. Litz and Bellington's failure to refund Skae's security deposit is grounds for denial of a license, which is cause for discipline under Section 339.100.2(16), RSMo.

22. Litz's and Bellington's failure to refund or account for Skae's security deposit upon termination of the lease and demand for refund constitutes "conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence," which is cause to discipline Litz's real estate broker officer license and Bellington's real estate corporation license pursuant to Section 339.100.2(19), RSMo

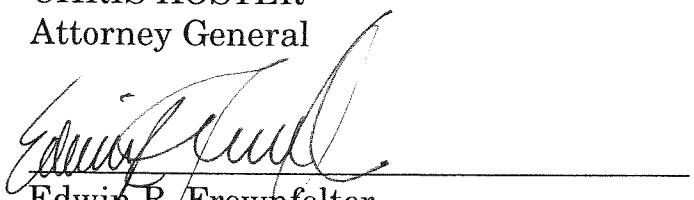
23. Litz's failure to respond to the MREC's inquiries constitutes a violation of 20 CSR 2250-8.170(1), which is cause to discipline Litz's real estate broker officer license and Bellington's real estate association license pursuant to Sections 339.100.2(15), (16), and (19), RSMo.

WHEREFORE, Petitioner prays this Administrative Hearing Commission to conduct a hearing in this case pursuant to Sections 621.015 to 621.205, RSMo, and thereafter issue its findings of fact and conclusions of law that the Petitioner may discipline Respondent Michael H. Litz's real estate broker license and Bellington Properties Inc.'s real estate association license

under the relevant provisions of Chapter 339, RSMo, and the regulations promulgated thereunder.

Respectfully submitted,

CHRIS KOSTER
Attorney General



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