BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 13-1522 RE
	)	
	)	
DWAYNE A. PERRY	)	
	)	
Respondent.	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER

On or about December 20, 2013, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Dwayne A. Perry,* No. 13-1522 RE. In that Default Decision, the Administrative Hearing Commission found that Respondent Dwayne A. Perry's real estate broker license (license no. 2003005625) 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 including the properly pled complaint 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 April 2, 2014, 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 were present throughout

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

the meeting. Charles Davis 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 Curtis Schube. 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. Dwayne A. Perry*, Case No. 13-1522 RE, issued December 20, 2013, 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 Dwayne A. Perry as a real estate broker, license number 2003005625. Respondent's broker license was not current at all times relevant to

this proceeding. On December 20, 2012 Respondent's broker license was suspended pursuant to § 324.010, RSMo, for failure to pay and/or file Missouri income taxes.

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 December 20, 2013, in *Missouri Real Estate Commission v. Dwayne A. Perry,* Case No. 13-1522 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 December 20, 2013, Respondent's real estate broker license, number 2003005625, 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 broker license of Dwayne A. Perry (license no. 2003005625) 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 9th DAY OF April, 2014.

MISSOURI REAL ESTATE COMMISSION

Janet Carder, Executive Director

Before the
Administrative Hearing Commission
State of Missouri

MISSOURI REAL ESTATE COMMISSION,	)	
Petitioner,	)	
vs.	)	No. 13-1522 RE
DWAYNE A. PERRY,	)	
Respondent.	)	

DEFAULT DECISION

On August 23, 2013, 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 October 29, 2013.

More than thirty days have elapsed since Respondent was served. Respondent has not filed an answer or otherwise responded to the complaint. On December 3, 2013, Respondent filed a motion to enter a default decision. We gave Respondent until December 18, 2013, to respond, but he did not respond.

In accordance with § 621.100.2, RSMo (Supp. 2012), we enter a default decision against Respondent 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 December 20, 2013.

Sreenivasa Rao Dandamudi

SREENIVASA RAO DANDAMUDI
Commissioner

FILED

AUG 23 2013

ADMINISTRATIVE HEARING COMMISSION

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

MISSOURI REAL ESTATE COMMISSION 3605 Missouri Boulevard P.O. Box 1339 Jefferson City, MO 65102, Petitioner, v. DWAYNE A. PERRY 2853 Shenandoah Ave. Saint Louis, MO 63104 Telephone:314-564-6525 Respondent.	Case #: 13-1522 RE

COMPLAINT

Petitioner, the Missouri Real Estate Commission ("MREC"), by and through the Attorney General of the State of Missouri, and for its cause of action against Respondent, states the following:

1. The 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, Brokers, Appraisers, and Escrow Agents.

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

2. Respondent, Dwayne A. Perry ("Perry"), holds a license as a real estate broker, license no. 2003005625, which was current and active until suspended on December 20, 2012.

3. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 339.100, RSMo, Supp. 2012.

4. On December 20, 2012, the MREC sent a letter by both certified and regular mail to Perry's last registered address with the MREC informing him that the MREC had been notified that he was not in compliance with § 324.010, RSMo Supp. 2012 and that his license was suspended by operation of law. Section 324.010, RSMo Supp. 2012 states:

> All governmental entities issuing professional licenses, certificates, registrations, or permits pursuant to . . . chapters 324 to 346, RSMo, shall provide the director of revenue with the name and Social Security number of each applicant for licensure with or licensee of such entities within one month of the date the application is filed or at least one month prior to the anticipated renewal of a licensee's license. If such licensee is delinquent on any state taxes or has failed to file state income tax returns in the last three years, the director shall then send notice to each such entity and licensee. In the case of such delinquency or failure to file, the licensee's license shall be suspended within ninety days after notice of such delinquency or failure to file, unless the director of revenue verifies that such delinquency or failure has been remedied or arrangements have been made to achieve such remedy. . . .

5. The December 20th letter informed Perry that he must return his license to the MREC within ten (10) days from the date of the correspondence, and to close his brokerage by submitting the necessary closure forms.

6. On February 27, 2013, the MREC re-sent the December 20th letter to Perry renewing its request.

7. Perry did not respond in writing to the MREC's written requests.

8. Because Perry has failed to respond in writing to the MREC's written requests or inquiries, Perry has violated 20 CSR 2250-8.170(1), 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.

9. Because Perry has failed to return his license, Perry has violated 20 CSR 2250-8.155(2)(A)(3), which states:

> (2) Revocation/Suspension.
>
> (A) Individual Broker or Corporation, Partnership, or Association. Upon the revocation or suspension of an individual broker, corporation, partnership, or association, the individual broker or designated broker shall—
>
> 1. Cease all brokerage business immediately upon the effective date of the suspension or revocation order;
>
> . . .
>
> 3. Notify all licensees associated with the brokerage of the revocation/suspension and return all licenses held by the broker to the commission[.]

10. Based on Perry's violation of 20 CSR 2250-8.155(2)(A)(3) and 20 CSR 2250-8.170(1), cause exists to discipline Perry's real estate broker license pursuant to § 339.100.2(15), RSMo Supp. 2012, which states:

> 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:
>
> * * *
>
> (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[.]

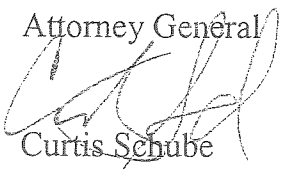
11. Perry's failure to respond and failure to return the license is evidence that Perry is not competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public. Therefore, there would be grounds under § 339.040.1, RSMo Cum. Supp. 2012, for the MREC to deny a license to Perry, and thus provides cause for discipline under § 339.100.2(16), RSMo Supp. 2012.

12. Perry's conduct, as alleged in this Complaint, constitutes untrustworthy, improper, and/or fraudulent business dealings and/or demonstrates bad faith, incompetence, misconduct, and/or gross negligence, providing cause for discipline under § 339.100.2(19), RSMo, Supp. 2012.

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 Perry's real estate broker under Chapter 339, RSMo and the regulations promulgated thereunder.

Respectfully submitted,

CHRIS KOSTER
Attorney General



Curtis Schube
Assistant Attorney General
Missouri Bar No. 63227

207 West High Street
P.O. Box 899
Jefferson City, MO 65102
Telephone: (573) 751-7728
Facsimile: (573) 751-5660

Attorneys for Petitioner