

**BEFORE THE  
MISSOURI REAL ESTATE COMMISSION  
STATE OF MISSOURI**

<b>MISSOURI REAL ESTATE COMMISSION,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 8-14-157</b>
	)	
<b>MARK J. ROTH</b>	)	
	)	
<b>Respondent.</b>	)	

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

Pursuant to notice the Missouri Real Estate Commission ("Commission") held a hearing on October 1, 2014, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining whether Respondent had violated the probationary terms of a prior Commission disciplinary order and if so, whether additional discipline of Respondent's license was warranted. All of the members of the Commission, with the exception of Twila Hillme were present throughout the meeting. Doris Carlin and Rosemary Vitale participated through conference call. The Commission was represented by Assistant Attorney General Faraz Nayyar. Respondent was properly and timely notified of the hearing. Respondent Roth did not appear individually or through legal counsel. After being present and considering all of the evidence presented during the hearing, the Commission issues these following Findings of Facts, Conclusions of Law and Disciplinary Order.

## I.

### FINDINGS OF FACT

1. The Missouri Real Estate Commission is an agency of the state of Missouri created and established pursuant to § 339.120, RSMo,<sup>1</sup> for the purpose of carrying out and enforcing the provisions of §§ 339.010 to 339.205 and 339.710 to 339.855, RSMo, and the regulations promulgated thereunder, relating to real estate salespersons and brokers.

2. Mark J. Roth holds broker associate licenses from the Commission, license nos. 2003024889 and 2011003859. Respondent's broker associate licenses were not current at all times relevant to this proceeding. On June 30, 2014 Respondent's broker associate licenses expired for failure to renew.

3. On June 25, 2014, the Commission issued its Order of the Missouri Real Estate Commission regarding the conversion of Mark J. Roth's broker associate licenses to a real estate salesperson license and placing said license on five (5) years probation. The Order required Roth to complete a Closing of a Real Estate Brokerage/Sole Proprietorship form for LB Realty LLC and return it to the Commission within 30 days of the date of the order. The Order required Roth to timely renew his real estate license(s), timely pay all fees required for license renewal and comply with all other requirements necessary to maintain his license(s) in a current and active status.

4. Roth failed to return both of his broker associate licenses to the Commission within 30 days of the date of this order.

5. Roth failed to submit the completed Closing of a Real Estate Brokerage/Sole Proprietorship form for LB Realty LLC.

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

6. Roth failed to timely renew his real estate license(s), timely pay all fees required for license renewal and comply with all other requirements necessary to maintain his license(s) in a current and active status.

7. Roth's failure to adhere to the terms of his probation by failing to return both of his broker associate licenses to the Commission, is a violation of Paragraph A of Section III of the Order which provides cause to further discipline Roth's license under § 324.042, RSMo.

8. Roth's failure to adhere to the terms of his probation by failing to submit a completed Closing of a Realty Estate Brokerage/Sole Proprietorship form for LB Realty LLC, is a violation of Paragraph B of Section III of the Order which provides cause to further discipline Roth's license under § 324.042, RSMo.

9. Roth's failure to adhere to the terms of his probation by failing to timely renew his real estate license(s), timely pay all fees required for license renewal and comply with all other requirements necessary to maintain his license(s) in a current and active status, is a violation of Paragraph F of Section III of the Order which provides cause to further discipline Roth's license under § 324.042, RSMo.

10. As a result of the foregoing, a Probation Violation Complaint was filed with the Missouri Real Estate Commission alleging that grounds existed for additional disciplinary action against Roth's Missouri real estate license(s), pursuant to § 324.042, RSMo.

11. The Commission set this matter for hearing and served notice of this disciplinary hearing upon Respondent in a proper and timely fashion.

12. On October 1, 2014, pursuant to notice and § 621.110, RSMo, this Commission held a hearing at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining whether the Respondent had violated any terms of the Disciplinary Order, and if so, whether any additional discipline would be imposed against

Respondent's license(s). Respondent Mark J. Roth was not present and was not represented by legal counsel. Petitioner was represented by Faraz Nayyar, Assistant Attorney General.

13. All the members of the Commission were present throughout the disciplinary hearing except Twila Hillme. Doris Carlin and Rosemary Vitale participated via conference call.

## II.

### CONCLUSIONS OF LAW

14. Roth's failure to adhere to the terms of his probation by failing to return both of his broker associate licenses to the Commission, in violation of Paragraph A of Section III on page 4 of the Order are violations of the terms of the Order which provides cause to further discipline Roth's license under § 324.042, RSMo.

15. Roth's failure to adhere to the terms of his probation by failing to submit a completed Closing of a Realty Estate Brokerage/Sole Proprietorship form for LB Realty LLC, is a violation of Paragraph B of Section III on Page 4 of the Order are violations of the terms of the Order which provides cause to further discipline Roth's license under § 324.042, RSMo.

16. Roth's failure to adhere to the terms of his probation by failing to timely renew his real estate license(s), timely pay all fees required for license renewal and comply with all other requirements necessary to maintain his license(s) in a current and active status, is a violation of Paragraph F of Section III on Page 5 of the Order are violations of the terms of the Order which provides cause to further discipline Roth's license under § 324.042, RSMo.

17. Pursuant to § 324.042, RSMo, the Commission has authority to impose additional discipline against Respondent Roth, for violating any disciplinary terms previously imposed or agreed to pursuant to the Order against a licensee.

18. Section 324.042, RSMo, provides:

Any board, commission or committee within the division of professional registration may impose additional discipline when it finds after hearing

that a licensee, registrant or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission or committee may impose as additional discipline, any discipline it would be authorized to impose in an initial disciplinary hearing.

19. Pursuant to Section 324.042, RSMo, the Commission has jurisdiction to hold additional hearings and impose discipline if it finds that a licensee has violated any disciplinary terms previously imposed by the Commission.

20. Section 339.100.3, RSMo, provides the Commission may discipline a real estate license after an initial disciplinary hearing by revoking, probating or suspending said license.

21. The Commission finds Respondent Mark J. Roth has violated the terms and conditions of the Order issued by the Commission on June 25, 2014 as a result of the conduct identified in the findings of fact set forth above.

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

### III.

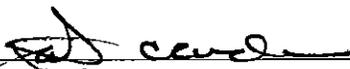
#### ORDER

Therefore, having fully considered all the evidence before the Commission, it is the ORDER of this Commission that:

23. The real estate license(s) of Respondent Mark J. Roth, license numbers 2003024889 and 2011003859, are hereby **REVOKED**. All evidence of Respondent's licensure shall be returned to the Commission within 30 days of this Order.

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

So Ordered this 14 day of October 2014.

  
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Janet Carder  
Executive Director  
Missouri Real Estate Commission

BEFORE THE  
MISSOURI REAL ESTATE COMMISSION

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

Petitioner, )

v. )

MARK JOSEPH ROTH )  
11018 Olive Street )  
Kansas City, MO 64131 )  
(816) 437-7727 )

Respondent. )

**RECEIVED**

AUG 27 2014

**MREC**

No. 13-1760 RE

PROBATION VIOLATION COMPLAINT

Petitioner, Missouri Real Estate Commission ("MREC"), by and through its attorney, the Attorney General of Missouri, states its cause of action against Mark Joseph Roth ("Roth"):

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 2000 (as amended), relating to real estate salespersons and brokers.

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<sup>1</sup>All statutory citations are to the 2013 Cumulative Supplement to the Revised Statutes of Missouri, unless otherwise noted.

2. Roth holds two broker associate licenses from the MREC, license nos. 2011003859 and 2003024889, issued on February 4, 2011 and September 23, 2003, respectively, which expired on June 30, 2014. The licenses have been placed on five years probation, pursuant to an MREC disciplinary order effective June 25, 2014 ("Order"), which is attached hereto and incorporated herein.

3. Precise Property Management LLC held a license as a real estate brokerage association until it was revoked on June 25, 2014. At the time of its revocation, Roth was the designated broker for Precise Property Management LLC.

4. Pursuant to § 324.042, RSMo, the MREC has jurisdiction to hold additional hearings and impose further discipline if it finds that a licensee has violated any disciplinary terms previously imposed. Section 324.042, RSMo, states:

Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline any discipline it would be authorized to impose in an initial disciplinary hearing.

5. The Order that placed the licenses on probation states:

Respondent [Roth]'s real estate broker associate licenses . . . are hereby **CONVERTED TO A REAL ESTATE SALESPERSON AND PLACED ON FIVE (5) YEARS PROBATION**. . . . During the disciplinary period, Respondent [Roth] shall be entitled to practice only as a real estate salesperson . . . provided [Roth] adheres to all terms of this Order[.]

The terms and conditions of the disciplinary period are as follows:

A. Respondent Mark J. Roth shall return both of his broker associate licenses to the Commission within 30 days of the date of this order and will be issued a real estate salesperson license.

B. Respondent Mark J. Roth shall complete a Closing of a Real Estate Brokerage/Sole Proprietorship form for LB Realty LLC and return it to the Commission within 30 days of the date of this order.

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F. Respondent Mark J. Roth shall timely renew his real estate license(s), timely pay all fees required for license renewal and shall comply with all other requirements necessary to maintain his license(s) in a current and active status. During the disciplinary period, Respondent shall not place his real estate license(s) on inactive status as would otherwise be allowed under 20 CSR 2250-4.040 or 20 CSR 2250-4.050. Alternatively without violating the terms and conditions of this Order Respondent may surrender his real estate license(s). After surrender, Respondent shall be required to re-qualify as if an original applicant and the Commission will not be precluded from basing its decision, wholly or partially, on the findings of fact, conclusions of law, and disciplinary set forth in this Order.

I. Respondent Mark J. Roth shall comply with all relevant provisions of Chapter 339, RSMo, as amended, all rules and regulations duly promulgated thereunder, all local, state, and federation laws. "State" as used here in includes the State of Missouri and all other states and territories of the United States. Any cause to discipline Respondent's real estate license under § 339.532.2, RSMo, as amended, that accrues during the disciplinary period shall also constitute a violation of this Order.

6. 20 CSR 2250-8.155(2) states, in pertinent part:

(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;

2. Notify the commission of the location where records and files will be stored, as well as the name, address, and phone number of the custodian who will be storing the records and files;

3. Notify all licensees associated with the brokerage of the revocation/suspension and return all licenses held by the broker to the commission;

4. Notify all current listing, buyer or tenant agreement, and management contract clients as well as parties and co-brokers to existing contracts, in writing, advising of the date the brokerage will close. All listing, buyer, tenant, and management clients must be advised in writing that they may enter into a new listing, buyer, tenant, or management agreement with the brokerage of their choice;

5. Remove all advertising signs from all properties which were listed with or managed by the brokerage;

6. Cancel or suspend all advertising and telephone listing advertisements. In case of suspension, post a notice of the suspension period on the outside of the office in a prominent location. In case of revocation, the licensee shall remove all office signs visible to the public;

7. Maintain all escrow or trust accounts until all monies are transferred to a title company, a lending institution, an escrow company, or an attorney for closing the transaction, or are otherwise properly disbursed as agreed to in writing by the parties having an interest in the funds;

8. Arrange for pending contracts to be closed by a title company, a lending institution, an escrow company, or an attorney. Notify all parties involved in pending transactions as to the name, address, and telephone number of the closing agent.

9. Notify the commission in writing on a form prescribed by the commission of the location where the records will be stored and that all requirements of 20 CSR 2250-8.155(2) have been met.

7. To date, Roth has not returned his broker associate licenses, in violation of Paragraph A of the Order.

8. To date, Roth has not completed and returned a Closing of a Real Estate Brokerage/Sole Proprietorship form for LB Realty LLC, in violation of Paragraph B of the Order.

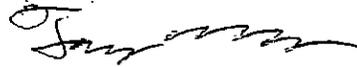
9. Roth has also failed to renew his real estate licenses in a timely fashion, in violation of Paragraph F of the Order.

10. Roth has also not complied with 20 CSR 2250-8.155(2), regarding the closure of Precise Property Management LLC after revocation, in violation of Paragraph I of the Order.

Based on the above, Petitioner requests the MREC hold a hearing to determine the above violations occurred and to impose further discipline pursuant to § 324.042, RSMo, and for other such relief as may be appropriate.

Respectfully submitted,

CHRIS KOSTER  
Attorney General



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Attorneys for Petitioner



Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action against Respondents' licenses. All of the members of the Commission, with the exception of Charles Davis, were present throughout the meeting. Further, each member of the Commission that was present for the hearing has read the Default Decision of the Administrative Hearing Commission. The Commission was represented by Assistant Attorney General Faraz Nayyar. Respondents having received proper notice and opportunity to appear, Respondent Mark J. Roth appeared in person without legal counsel. Respondent Precise Property Management LLC was not represented by counsel. After being present and considering all of the evidence presented during the hearing, the Commission issues these 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 findings of fact of the Default Decision and record of the Administrative Hearing Commission in *Mark J Roth and Precise Property Management*, No. 13-1760 RE, in its entirety and takes official notice thereof and hereby enters its findings of fact consistent therewith.

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

4. The Commission issued Mark J. Roth's real estate broker associate licenses 2003024889 and 2001003859 and Precise Property Management LLC's real estate association license 2011003854. Respondents' licenses were 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 conclusions of law and Default Decision issued by the Administrative Hearing Commission dated January 29, 2013, in *Missouri Real Estate Commission v. Mark J. Roth and Precise Property Management LLC*, No. 13-1760 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 28, 2014, Respondents' real estate licenses are subject to disciplinary action by the Commission pursuant to § 339.100.2 (15), 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:

Respondent Precise Property Management's real estate association license (license no. 2011003854) is hereby REVOKED. All evidence of Respondent Precise Property Management'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.

Respondent Mark J. Roth's real estate broker associate licenses (license no. 2003024889 and 2011003859) are hereby CONVERTED TO A REAL ESTATE SALESPERSON AND PLACED ON FIVE (5) YEARS PROBATION. The period of probation shall constitute the "disciplinary period." During the disciplinary period, Respondent Mark J. Roth shall be entitled to practice only as a real estate salesperson under Chapter 339, RSMo, as amended, provided Respondent Mark J. Roth adheres to all terms of this Order

The terms and conditions of the disciplinary period are as follows:

A. Respondent Mark J. Roth shall return both of his broker associate licenses to the Commission within 30 days of the date of this order and will be issued a real estate salesperson license.

B. Respondent Mark J. Roth shall complete a Closing of a Real Estate Brokerage/Sole Proprietorship form for LB Realty LLC and return it to the Commission within 30 days of the date of this order.

C. Respondent Mark J. Roth shall provide the Commission with a copy of his social security card and a current address.

D. Respondent Mark J. Roth shall conduct NO property management business.

E. Respondent Mark J. Roth shall keep the Commission apprised at all times, in writing, of Respondent's current addresses and telephone numbers at each place of residence and business. Respondent shall notify the Commission within ten (10) days of any change in this information.

F. Respondent Mark J. Roth shall timely renew his real estate license(s), timely pay all fees required for license renewal and shall comply with all other requirements necessary to maintain his license(s) in a current and active status. During the disciplinary period, Respondent shall not place his real estate license(s) on inactive status as would otherwise be allowed under 20 CSR 2250-4.040 or 20 CSR 2250-4.050. Alternatively without violating the terms and conditions of this Order Respondent may surrender his real estate license(s). After surrender, Respondent shall be required to re-qualify as if an original applicant and the Commission will not be precluded from basing its decision, wholly or partially, on the findings of fact, conclusions of law, and disciplinary set forth in this Order.

G. Respondent Mark J. Roth shall meet in person with the Commission or its representative at any such time or place as required by the Commission or its designee upon notification from the Commission or its designee. Said meetings will be at the Commission's discretion and may occur periodically during the probation period.

H. During the probation period, Respondent Mark J. Roth shall accept and comply with unannounced visits from the Commission's representative to monitor compliance with the terms and conditions of this Order.

I. Respondent Mark J. Roth shall comply with all relevant provisions of Chapter 339, RSMo, as amended, all rules and regulations duly promulgated thereunder, all local, state, and federation laws. "State" as used here in includes the State of Missouri and all other states

and territories of the United States. Any cause to discipline Respondent's real estate license under §339.532.2, RSMo, as amended, that accrues during the disciplinary period shall also constitute a violation of this Order.

J. Upon the expiration and successful completion of the disciplinary period, Respondent's respective real estate salesperson license shall be fully restored if all other requirements of law have been satisfied; provided, however, that in the event the Commission determines that Respondent has violated any term or condition of this Order, the Commission may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Respondent's real estate salesperson license. Respondent Mark J. Roth may apply for a real estate broker license after the conclusion of the disciplinary period, but must meet the full requirements for that license as set forth in § 339.040, RSMO.

No additional discipline shall be imposed by the Commission pursuant to the preceding paragraph of this Order without notice and opportunity for hearing before the Commission as a contested case in accordance with the provisions of Chapter 536, RSMo.

This Order does not bind the Commission or restrict the remedies available to it concerning any future violations by Respondent Mark J. Roth of §§ 339.010 through 339.205 and §§ 339.710 through 339.855, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Order.

This Order does not bid the Commission to restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Order that are either now known to the Commission or may be discovered.

Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

The terms of this Order are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Order nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharger, or termination is sought.

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

Respondent Mark J. Roth together with his partners, heirs, assigns, agents, employees, representatives and attorneys, does hereby waive, release, acquit and forever discharge the Commission, its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Order. The parties acknowledge that this paragraph is severable from the remaining portions of the Order in that it survives in perpetuity even in the event that any court or administrative tribunal deems this Order or any portion thereof void or unenforceable.

SO ORDERED, EFFECTIVE THIS 25<sup>th</sup> DAY OF June, 2014

MISSOURI REAL ESTATE COMMISSION

  
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Janet Carder, Executive Director