

BEFORE THE
MISSOURI REAL ESTATE COMMISSION

In the matter of the application of)
)
Winston Management Services, LLC)
)
Applicant)

**ORDER OF THE MISSOURI REAL ESTATE COMMISSION
REGARDING ISSUANCE OF A PROBATED REAL ESTATE
ASSOCIATION LICENSE TO WINSTON MANAGEMENT SERVICES, LLC**

The Missouri Real Estate Commission (“MREC”) hereby issues its ORDER granting a PROBATED real estate association license to Winston Management Services, LLC (“Winston”) pursuant to the provisions of § 324.038, RSMo¹. As set forth in § 324.038, RSMo, Winston may submit a written request for a hearing to the Administrative Hearing Commission seeking review of the MREC’s decision to issue a probated real estate association license. Such written request must be filed with the Administrative Hearing Commission within 30 days of the date of delivery or mailing by certified mail of this Order. The written request should be addressed to the Administrative Hearing Commission, Room 640, Truman State Office Building, P.O. Box 1557, Jefferson City, Missouri 65102-1557. If no written request for review is filed with the Administrative Hearing Commission within the 30-day period, the right to seek review of the MREC’s decision shall be considered waived.

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

I

FINDINGS OF FACT

Based upon the foregoing, the MREC hereby states:

1. The MREC is an agency of the State of Missouri created and existing pursuant to § 339.120, RSMo, for the purpose of executing and enforcing the provisions of §§ 339.010 to 339.205 and §§ 339.710 to 339.860, RSMo, and the regulations promulgated thereunder, relating to real estate salespersons and brokers.
2. Winston is a domestic Limited Liability Company registered with the Missouri Secretary of State, Charter Number LC01018026, located at the address of 11701 Bristol Terr., Kansas City, Missouri 64134. Ann Marie Winston (Ann Marie) was identified as the sole organizer of Winston, and also as its registered agent.
3. Ann Marie holds an active real estate salesperson license that is valid through September 30, 2014.
4. Ann Marie's salesperson license is affiliated with Artena Thompson, an individual broker.
5. On or about August 31, 2012, the MREC received a formal complaint alleging that Ann Marie, through Winston, failed to provide a property owner with an accurate accounting for their properties. It was also alleged Ann Marie, through Winston, mismanaged the properties.
6. On or about April 5, 2013, Ann Marie was interviewed by a MREC staff member and acknowledged that through Winston she managed properties owned by approximately eight (8) clients.

7. This activity was conducted outside of Ann Marie's broker, Artena Thompson (Thompson).
8. On or about October 17, 2013, the MREC mailed correspondence to Ann Marie advising her that Winston was required to hold a real estate license to manage properties for third parties, and also that Winston was to immediately cease such unlicensed activity until proper licensure was obtained.
9. On or about November 1, 2013, the MREC first received Winston's application for a real estate association license ("Application").
10. The application identified Thompson as the designated broker and also the only member of the association.
11. On November 4, 2013, the application was returned to Thompson because it was incomplete.
12. On or about February 14, 2014, the MREC received a complete application for Winston.

II

CONCLUSION OF LAW

13. As a result of the unlicensed real estate activity identified in Section I herein, cause exists for the MREC to deny Winston's application for a real estate association license pursuant to § 339.020, RSMo, which provides: "It Shall be unlawful for any person, partnership, association, or corporation, foreign or domestic, to act as a real estate broker or real estate salesperson, or to advertise or assume to act as such without a license first procured from the commission."

14. As a result of the unlicensed real estate activity identified in Section I herein, cause exists for the MREC to deny Winston's application for a real estate association license pursuant to the provisions of § 339.100.2(15), (16), and (19), RSMo, which state:

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621, RSMo, against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or his 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*;

.....

(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.

15. Section 339.040.1, RSMo, provides that licenses shall be issued only to associations whose associates are persons of good moral character who bear a good reputation for honesty, integrity, and fair dealing and who are competent to transact the business of a real estate salesperson in a manner so as to safeguard the public's interest.

16. As a result of the unlicensed activity identified in Section I herein, Winston has engaged in conduct that adversely affects its qualifications to practice as a real estate association.

17. As an alternative to refusing to issue a license, the MREC may, at its discretion, issue a license subject to probation, pursuant to § 324.038.1, RSMo, which provides:

Whenever a board within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of license, the board, as an alternative to refusing to issue a license, may at its discretion, issue to an applicant a license subject to probation.

18. The MREC issues this Order in lieu of denial of Winston's application for a real estate association license. The MREC has determined that this Order is necessary to ensure the protection of the public.

III

TERMS AND CONDITIONS

19. Based on the foregoing, the Missouri real estate association license issued to Winston is subject to the following terms and conditions.

20. **Winston's license is on probation for two years.** Winston's real estate association license is hereby placed on PROBATION for a period of TWO YEARS from the effective date of this Order. During the period of probation on its real estate association license, Winston shall be entitled to practice as a real estate

association provided it adheres to all the terms stated herein. The period of probation shall constitute the “disciplinary period.”

21. **Terms and conditions of the disciplinary period.** Terms and conditions of the disciplinary period are as follows:

A. Winston, through its designated broker, shall keep the MREC apprised at all times in writing of its current address and telephone number at each place of residence and business. Winston, through its designated broker, shall notify the MREC in writing within ten days of any change in this information.

B. Winston, through its designated broker, shall timely renew its Missouri real estate association license, timely pay all fees required for license renewal, and comply with all other requirements necessary to maintain its license in a current and active state.

C. Winston, through its designated broker, shall meet in person with the MREC or its representative at any such time and place as required by the MREC or its designee upon notification from the MREC or its designee. Said meetings will be at the MREC’s discretion and may occur periodically during the probation period.

D. Winston, through its designated broker, shall immediately submit documents showing compliance with the requirements of this Order to the MREC when requested by the MREC or its designee.

E. During the probationary period, Winston shall accept and comply with unannounced visits from the MREC’s representatives to monitor compliance with the terms and conditions of this Order.

F. If at any time within the disciplinary period Winston ceases to be currently licensed in Missouri under the relevant provisions of Chapter 339, RSMo, as amended; fails to timely pay all fees required for license renewal; or fails to keep the MREC advised of all current places of residence and business, the time of absence, unlicensed status, delinquency in paying fees for license renewal or unknown whereabouts shall not be deemed or taken as any part of the disciplinary period.

G. Winston shall comply with all relevant provisions of Chapter 339, RSMo, as amended; all rules and regulations of the MREC; and all local, state, and federal laws. "State" as used herein refers to the State of Missouri and all other states and territories of the United States.

22. Upon the expiration and successful completion of the disciplinary period, Winston's real estate association license shall be fully restored if all other requirements of the law have been satisfied; provided, however, that in the event the MREC determines that Winston has violated any term or condition of this Order, the MREC may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Winston's real estate association license.
23. No order shall be entered by the MREC pursuant to the preceding paragraph of this Order without notice and an opportunity for hearing before the MREC in accordance with the provisions of Chapter 536, RSMo.
24. If the MREC determines that Winston has violated a term or condition of this Order, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the MREC may elect to

pursue any lawful remedies or procedures afforded it and is not bound by this Order in its determination of appropriate legal actions concerning such violation.

25. If any alleged violation of this Order occurs during the disciplinary period, the MREC may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. The MREC has continuing jurisdiction to hold a hearing to determine if a violation of this Order has occurred.

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

SO ORDERED AND EFFECTIVE THIS 20TH DAY OF FEBRUARY 2014.



Janet Carder, Executive Director
Missouri Real Estate Commission