

BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION)	
)	
Petitioner)	
v.)	No. 15-1575RE
)	
DONNIE PAUL ZEIGLER)	
)	
Respondent)	

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

On or about March 14, 2016, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Donnie Paul Zeigler*, No. 15-1575RE. In that Default Decision, the Administrative Hearing Commission found that Respondent Donnie Paul Zeigler’s real estate broker license (license no. 2004037049) 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 June 8, 2016, 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 the meeting. Further, each member of this Commission has read the Default Decision of the

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

Administrative Hearing Commission. The Commission was represented by Assistant Attorney General Craig Jacobs. Respondent having received proper notice and opportunity to appear did appear in person without 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 properly pled Complaint and the Default Decision of the Administrative Hearing Commission in *Missouri Real Estate Commission v. Donnie Paul Zeigler*, Case No. 15-1575RE, issued March 14, 2016, 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 appeared in person without through legal counsel at the hearing before the Commission and offered testimony regarding the case.

4. This Commission licensed Respondent Donnie Paul Zeigler as a real estate broker, license number 2004037049. Respondent's broker license was 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 properly pled complaint and Default Decision issued by the Administrative Hearing Commission dated March 14, 2016, in *Missouri Real Estate Commission v. Donnie Paul Zeigler*, Case No. 15-1575RE, 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 March 14, 2016, Respondent's real estate broker license, number 2004037049, 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 Donnie Paul Zeigler (license no. 2004037049) is hereby placed on TWO (2) YEARS PROBATION. During Respondent's probation, Respondent shall be entitled to practice under his respective license provided that Respondent adheres to all of the terms stated herein. The period of probation shall constitute the "disciplinary period."

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

A. Respondent shall keep the MREC 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 MREC within ten (10) days of any change in this information.

B. Respondent shall timely renew his real estate license(s), timely pay all fees required for license(s) 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. Alternatively, without violation the terms and conditions of this Order, Respondent may surrender his real estate license(s) by submitting a letter to the Commission and complying with 20 CSR 2050-8.155. If Respondent applies for a real estate license(s) after surrender, Respondent shall be required to requalify 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 Discipline set form in this Order.

C. Respondent shall meet in person with the Commission or its representative any 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.

D. Respondent shall immediately submit documents showing compliance with the requirements of this Order to the Commission when requested by the Commission or its designee.

E. During the probationary period, Respondent shall accept and comply with unannounced visits from the Commission's representative to monitor compliance with the terms and conditions of this Order.

F. Respondent shall comply with all relevant provisions of Chapter 339, RSMo, as amended; all rules and regulations duly promulgated thereunder, all local, state and federal laws. "State" as used herein includes the State of Missouri and all other states and territories of the United States. Any cause to discipline Respondent's licenses as a broker under § 339.100.2, RSMo, as amended, that accrues during the disciplinary period shall constitute a violation of this Order.

G. Respondent shall report to the MREC each occurrence of Respondent being finally adjudicated and found guilty, or entering a plea of guilty or nolo contendere, in a state or federal criminal prosecution, to felony or misdemeanor offenses, within ten business days of each such occurrence.

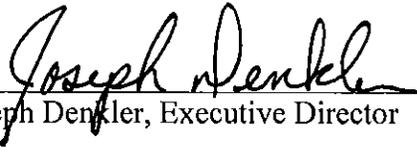
H. Broker Acknowledgement. If at any time during the disciplinary period Respondent wishes to transfer his license affiliation to a new broker/brokerage, he must submit a Broker Acknowledgment form signed by the new broker. This acknowledgment is in addition to any other required application, fee, and documentation necessary to transfer his license. Respondent must obtain the Broker Acknowledgement form from the Commission.

I. Upon the expiration and successful completion of the disciplinary period, Respondent's respective real estate broker license shall be fully restored if all other requirements of law have been satisfied; provided, however, that in the event the MREC determines that Respondent 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 Respondent's real broker license.

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 June, 2016.

MISSOURI REAL ESTATE COMMISSION



Joseph Denkler, Executive Director

Before the
Administrative Hearing Commission
State of Missouri



REAL ESTATE COMMISSION
Petitioner,

v.

DONNIE PAUL ZEIGLER
Respondent,

No. 15-1575 RE

DEFAULT DECISION

On October 14, 2015, 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 January 28, 2016.

More than thirty days have elapsed since Respondent was served. Respondent has not filed an answer or otherwise responded to the complaint.

In accordance with § 621.100.2, RSMo (Supp. 2013), 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 March 14, 2016.


BRETT W. BERRI
Commissioner

**BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI**

OCT 14 2015
ADMINISTRATIVE HEARING
COMMISSION

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

Petitioner,)

v.)

**DONNIE PAUL ZEIGLER)
PO Box 84)
Green Castle, MO 63544)
Telephone: (660) 265-9111,)**

Respondent.)

Case No. _____

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 Donnie Paul Zeigler ("Zeigler") holds a license as a real estate broker, license no. 2004037049, which expires June 30, 2016.

3. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 339.100, RSMo Cum. Supp. 2013.

4. On or about September 4, 2014, the MREC sent to Zeigler a letter indicating that he was being randomly selected for audit of his records relating to his escrow account(s), brokerage service agreements, pending and closed transactions, advertising, and property management records. Zeigler was also requested to complete a questionnaire provided by the MREC. The letter requested the records be submitted by Zeigler to the MREC within 30 days.

5. On or about September 8, 2014, Zeigler submitted a completed copy of the questionnaire to MREC, and agreed to have an audit at his place of business on October 20, 2014.

6. On October 20, 2014, Zeigler called and cancelled the audit. He indicated he would submit copies of the requested documents by November 3, 2014.

7. On November 3, 2014 Zeigler called and requested additional time to submit the documents. Zeigler was given an additional 30 days to

submit the documents. The MREC sent Zeigler a letter dated November 3, 2014, confirming Zeigler had 30 days to submit the documents and that if Zeigler failed to respond within 30 days, the matter would be reviewed for possible disciplinary action.

8. As of the filing of this Complaint, Zeigler has not responded.
9. Section 339.100.2, RSMo (Cum. Supp. 2013), provides in part:

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 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, 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[.]

10. Section 339.040, RSMo Cum Supp. 2013, establishes the criteria that must be established to hold a real estate broker's license and states, in relevant part:

1. Licenses shall be granted only to persons who present...satisfactory proof to the commission that they:

...

(3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

11. Rule 20 CSR 2250-8.160, regarding the retention of records, states:

(1) Every broker shall retain for a period of at least three (3) years true copies of all business books; accounts, including voided checks; records; contracts; brokerage relationship agreements; closing statements and correspondence relating to each real estate transaction that the broker has handled. The records shall be made available for inspection by the commission and its authorized agents at all times during usual business hours at the broker's regular place of business. No broker shall charge a separate fee relating to retention of records.

12. By failing to allow an audit at his place of business by the MREC, as well as failing to make available records requested by the MREC, Zeigler thereby violated 20 CSR 2250-8.160, providing cause to discipline his license pursuant to § 339.100.2(15) and (19), RSMo (Cum Supp. 2013).

13. Rule 20 CSR 2250-8.170, regarding the duty to respond to the MREC, 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.

14. By failing to respond in writing, within 30 days from the dates of the MREC's requests or inquiries, Zeigler thereby violated 20 CSR 2250-8.170, providing cause to discipline his license pursuant to § 339.100.2(15) and (19), RSMo (Cum Supp. 2013).

15. Zeigler's failure to allow the MREC to audit his business, to provide requested documents, and/or to respond to multiple letters is evidence that Zeigler 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. 2013, for the MREC to deny a license to Zeigler, and thus provides cause for discipline under § 339.100.2(16), RSMo Cum. Supp. 2013.

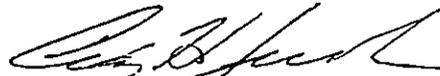
16. Ziegler's conduct, as alleged in this Compliant, constitutes untrustworthy, improper, and/or fraudulent business dealings and/or demonstrates bad faith, incompetence, misconduct, and/or gross negligence,

providing cause for discipline under §339.100.2(19), RSMO Cum. Supp. 2013.

WHEREFORE, Petitioner requests that the Administrative Hearing Commission conduct a hearing in this case pursuant to Chapter 621, RSMo, and issue its Findings of Fact and Conclusions of Law determining that Petitioner may take disciplinary action against the license of Respondent Donnie Paul Zeigler as a real estate broker for the violations noted above, and for such other relief as the Commission deems appropriate.

Respectfully submitted,

CHRIS KOSTER
Attorney General



Craig H. Jacobs
Assistant Attorney General
Missouri Bar No. 48358

207 West High Street
P.O. Box 899
Jefferson City, MO 65102
Telephone: (573) 751-1143
Telefax: (573) 751-5660
Craig.Jacobs@ago.mo.gov

Attorneys for Petitioner

Missouri Real Estate Commission

FILED

vs.

received
1/26/16

FEB 04 2016

Donnie Paul Zeigler

ADMINISTRATIVE HEARING
COMMISSION

No. 15-1575 RE

Pursuant to section 621.100.1, RSMo, the Administrative Hearing Commission authorizes Petitioner or its attorney or any agent they designate to serve the complaint and notice of complaint/notice of hearing in this case upon the licensee in person, or by leaving a copy of the complaint at the licensee's dwelling house or usual place of abode or last address given to the agency by the licensee with some person residing or present therein over the age of fifteen. This Commission does not bear the expense of providing services under this authorization.

November 24, 2015
November 24, 2015

[Signature]
COMMISSIONER

I served the complaint, notice of complaint/notice of hearing, on

(date) 1-28-16

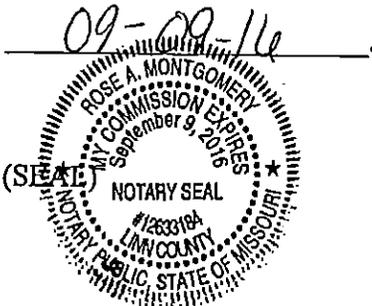
Upon (the licensee or other person as authorized above) DONNIE P ZEIGLER

at 110 FRONT ST, GREEN CASTLE, MO

by TRAIL HATES
(Print Name)

[Signature]
(Signature)

Subscribed and sworn to before me on 1-28-16. My commission expires



[Signature]
NOTARY PUBLIC