BEFORE THE
MISSOURI REAL ESTATE COMMISSION
STATE OF MISSOURI

MISSOURI REAL ESTATE COMMISSION,	)	
	)	
Petitioner,	)	
	)	
v.	)	**Case No. 4-18-81 PV**
	)	
JAMES W. BENNETT	)	
MISSOURI LAND SALES COMPANY	)	
	)	
Respondents.	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER

Pursuant to notice the Missouri Real Estate Commission ("Commission") held a hearing on April 3, 2019, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining whether Respondents had violated the disciplinary terms of a prior Commission Disciplinary Order and if so, whether additional discipline of Respondents' licenses was warranted. All of the members of the Commission were present throughout the meeting. Cindy Fox participated via telephone. The Commission was represented by Assistant Attorney General Ross Kaplan. On behalf of the Commission, counsel offered the testimony of Terry W. Moore, Executive Director, and offered four (4) exhibits which were admitted into the record. Respondent James W. Bennett, having received proper notice and opportunity to appear, did not appear in person or through legal counsel. Respondent Missouri Land Sales Company, 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 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.,[1] 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. James W. Bennett holds a Broker Officer license from the Commission, license number 1999046471. Mr. Bennett's Broker Officer license was not current at all times relevant to this proceeding. Mr. Bennett's Broker Officer license expired on June 30, 2018. Respondent Missouri Land Sales Company holds a real estate corporation license, number 000003571. Missouri Land Sales Company was not current at all times relevant to this proceeding. Missouri Land Sales Company's license expired on June 30, 2018.

3. On December 11, 2014, the Commission issued an Order suspending Mr. Bennett's Broker Officer license and Missouri Land Sales Company's real estate association license until full restitution had been made to Jon Tignor ($10,000), Farrel Hastey ($1,000), Charles Gerding, Jr. ($4,500), Karla Simpson ($1,000) and Barbara Brooks ($5,000). Mr. Bennett was to submit proof of payments to the MREC office on a quarterly basis. The Disciplinary Order required Respondents to 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.

4. The relevant terms of the disciplinary period as stated in the Disciplinary Order were:

a. Section III, Paragraph B: Respondent James W. Bennett shall make payments to all of the following on at least a quarterly basis: to Jon Tignor ($10,000), Farrel Hastey ($1,000), Charles Gerding, Jr. ($4,500), Karla Simpson ($1,000) and

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

Barbara Brooks ($5,000). Respondent James W. Bennett shall submit evidence of such payments to all five (5) debtors quarterly to the MREC office.

b. Section III, Paragraph G: James W. Bennett and Missouri Land Sales Company shall comply with all relevant provisions of Chapter 339, RSMo, as amended, all rules and regulations duly promulgated thereunder, and 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 Missouri Land Sale Company and James W. Bennett's licenses as a real estate corporation and broker under §339.532.2, RSMo., as amended, that accures during the disiciplinary period shall also constitute a violation of this Disciplinary Order.

5. To date, Respondent Missouri Land Sales Company has failed to file correct and current annual reports with the Missouri Secretary of State in violation of §§ 351.484 which led to Missouri Land Sales Company being administratively dissolved, which provides cause to further discipline Respondents' licenses pursuant to Section 324.042, RSMo., and Section III, Paragraph G of the Disciplinary Order 14-0423 RE.

6. To date, Respondent James W. Bennett has failed to pay restitution to any of the five debtors (Jon Tignor ($10,000), Farrel Hastey ($1,000), Charles Gerding, Jr. ($4,500), Karla Simpson ($1,000) and Barbara Brooks ($5,000) and failed to submit proof of such payments quarterly to the MREC office, which provides cause to further discipline Respondents' licenses pursuant to Section 324.042, RSMo., and Section III, Paragraph B of the Disciplinary Order 14-0423RE.

7. As a result of the foregoing, a Disciplinary Order Violation Complaint was filed with the Missouri Real Estate Commission alleging that grounds existed for additional disciplinary action against James W. Bennett and Missouri Land Sales Company's Missouri real estate licenses, pursuant to § 324.042, RSMo.

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

9. On April 3, 2019, 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 Respondents had violated any terms of the Order, and if so, whether any additional discipline would be imposed against Respondents' licenses. Respondent James W. Bennett, did not appear in person or through legal counsel. Respondent Missouri Land Sales Company, having received proper notice and opportunity to appear, did not appear in person or through legal counsel. Petitioner was represented by Ross Kaplan, Assistant Attorney General, who presented evidence and testimony as stated on page 1 of this Order.

10. All the members of the Commission were present throughout the disciplinary hearing.

II.

CONCLUSIONS OF LAW

11. James W. Bennett and Missouri Land Sales Company's failure to adhere to the terms of the Disciplinary Order by failing to remit any payments to Jon Tignor ($10,000), Farrel Hastey ($1,000), Charles Gerding, Jr. ($4,500), Karla Simpson ($1,000) and Barbara Brooks ($5,000), submit proof of payments to the MREC office on a quarterly basis, and failed to keep Missouri Land Sales Company properly registered with the Missouri Secretary of State's office, in violation of Section III, Paragraphs B & G of the Disciplinary Order are violations of the terms of the Disciplinary Order which provides cause to further discipline James W. Bennett and Missouri Land Sales Company's licenses under § 324.042, RSMo.

12. Pursuant to § 324.042, RSMo., the Commission has authority to impose additional

discipline against James W. Bennett and Missouri Land Sales Company, for violating any disciplinary terms previously imposed or agreed to pursuant to the Disciplinary Order with the licensees.

13. 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.

14. 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.

15. 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.

16. The Commission finds Respondents James W. Bennett and Missouri Land Sales Company have violated the terms and conditions of the Disciplinary Order that became effective December 11, 2014 as a result of the conduct identified in the Findings of Facts set forth above.

17. 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:

18. The real estate licenses of Respondent James W. Bennett, license number 1999056471 and Missouri Land Sales Company, license number 000003571, are hereby

REVOKED. Respondents are hereby **ORDERED** to **each** pay a civil penalty of $25,000 by certified check made payable to the "Missouri Real Estate Commission" and mail to the Missouri Real Estate Commission, P.O. Box 1339, Jefferson City MO 65102-1339. Said certified check must be postmarked or hand delivered within 60 days of the date of this Order. Funds received pursuant to this Order shall be handled in accordance with Section 7 of Article IX of the Missouri Constitution and § 339.205.8, RSMo. All evidence of Respondents' licensure shall be immediately returned to the Commission within 30 days of this Order along with a Closing of a Real Estate Brokerage/Sole Proprietorship form, if Respondent has not already done so.

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 this 9TH **day of** APRIL **2019.**

Terry Moore

Terry W. Moore, Executive Director
Missouri Real Estate Commission

BEFORE THE
MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION Petitioner, v. JAMES W. BENNETT 5940 State Rd. H DeSoto, MO 63020 and Missouri Land Sales Company 5940 State Rd. H DeSoto, MO 63020 Respondents.	)	Case No. _____

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MREC

DISCIPLINE VIOLATION COMPLAINT

Petitioner, the Missouri Real Estate Commission ("MREC"), by and through undersigned counsel, states the following for its cause of action:

1. The MREC is an agency of the State of Missouri, created and established pursuant to §339.120[1] for the purpose of executing and enforcing the provisions of §§ 339.010 to 339.205 and 339.710 to 339.855 relating to real estate salespersons, brokers and corporations.

[1] All statutory citations are to the 2016 RSMo, as amended, unless otherwise noted.

2. Respondent James W. Bennett ("Bennett") holds real estate broker officer license no. 1999056471 and Respondent Missouri Land Sales Company ("MLSC") holds real estate corporation, license no. 000003571.

3. On December 11, 2014, the MREC issued Disciplinary Order No. 14-0423 RE against Respondents. A true and correct copy of Disciplinary Order No. 14-0423 RE is attached to this Complaint as Exhibit 1 and is incorporated by reference.

4. Respondent Bennett's license was suspended pursuant to Disciplinary Order No. 14-0423 RE, and such license subsequently expired on June 30, 2018.

5. Respondent MLSC's license was suspended pursuant to Disciplinary Order No. 14-0423 RE, and such license subsequently expired on June 30, 2018.

6. The MREC Disciplinary Order No. 14-0423 RE stated in relevant part:

   A. The licenses of Respondents Bennett and MLSC were suspended for three years;

   B. Respondents Bennet and MLSC were to pay restitution before the completion of the period of suspension to:

      a. Jon Tignor in the amount of $10,000,

      b. Farrel Hastey in the amount of $1,000,

c. Charles Gerding, Jr. in the amount of $4,500,

d. Karla Simpson in the amount of $1,000, and

e. Barbara Brooks in the amount of $5,000;

C. Respondents were to submit quarterly proof of payments made to the MREC;

D. After paying the restitution and completing the suspension, the licenses of Respondents Bennett and MLSC were to be placed on probation for three years;

E. During the periods of suspension and probation, Respondents were to maintain the licenses in current and active status; and

F. During the periods of suspension and probation, Respondents were required to comply with all applicable laws.

7. On April 20, 2016, the MREC issued Disciplinary Order No. 14-0423 RE PV against Respondent Bennett. A true and correct copy of Disciplinary Order No. 14-0423 RE PV is attached to this Complaint as Exhibit 2 and is incorporated by reference.

8. The MREC Disciplinary Order No. 14-0423 RE PV stated in relevant part:

A. Bennett had failed to comply in making quarterly reports to the MREC;

B. Bennett had failed to pay restitution to the individuals in the prior order;

C. There were sufficient grounds to impose additional discipline to Bennett's license;

D. Bennett's license would remain suspended until all restitution was paid; and

E. Bennett's probationary period would increase an additional two years making the total probationary period to five years.

9. Since Disciplinary Order No. 14-0423 RE PV issued, Respondents have not made the payments of restitution enumerated above.

10. Since Disciplinary Order No. 14-0423 RE PV issued, Respondents have not submitted quarterly proofs of payments made to the MREC regarding the restitution enumerated above.

11. Respondent MSLC is not properly registered with the Missouri Secretary of State due to a failure to comply with §351.484, failure to file a correct and current annual report, and has been administratively dissolved. A true and correct copy of the Missouri Secretary of State's Administrative Dissolution of MSLC is attached to this Complaint as Exhibit 3 and is incorporated by reference.

12. The MREC has authority as to Respondent MLSC to conduct a hearing pursuant to Disciplinary Order No. 14-0423 RE, Part III, Paragraph G and Respondent Bennett pursuant to Disciplinary Order No. 14-0423 RE PV, Part III, Paragraph H, which state:

> [In] the event the Commission determines that Respondents have 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 Respondents' real estate broker officer license and real estate corporation license.
>
> No additional discipline shall be imposed by the Commission without notice and opportunity for a hearing before the Commission as a contested case in accordance with the provisions of Chapter 536, RSMo.

13. The MREC also has authority pursuant to §324.042, RSMo, which 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.

Count I –MLSC Failed to Comply a Law of the State

14. Part III, paragraph G of Disciplinary Order 14-0423 RE, which requires compliance with the law, provides that:

> Respondents 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 Respondents' real estate licenses under §339.532.2, RSMo, as amended, that accrues during the disciplinary period shall also constitute a violation of this Order.

15. Pursuant to Part III, paragraph G of Disciplinary Order 14-0423 RE, MLSC was required to comply with the laws of this state.

16. Section 351.484 states in relevant part:

> The secretary of state may ... dissolve a corporation administratively if...
>
> (4) The corporation does not deliver its corporate registration report to the secretary of state within ninety days after it is due[.]

17. Respondent MLSC failed to file correct and current annual reports with the Missouri Secretary of State in violation of §§ 351.484, which led to Respondent being administratively dissolved.

18. Respondent MLSC violated the terms of Part III, paragraph G of Disciplinary Order 14-0423 RE and the terms and conditions of its discipline with the MREC because it failed to comply with the laws of this state and submit annual reports to the Missouri Secretary of State. Therefore, the MREC has sufficient grounds to impose additional discipline pursuant to §324.042, RSMo.

Count II –Bennett Failed to Pay Restitution and Failed to Report

19. Part III, paragraph A of Disciplinary Order 14-0423 RE PV, which requires repayments and reports, provides that:

> Respondent James W. Bennett shall make payments to all of the following on at least a quarterly basis: Jon Tignor ($10,000), Farrel Hastey ($1,000), Charles Gerding, Jr. ($4,500), Karla Simpson ($1,000), Barbara Brooks ($5,000). Respondent shall submit evidence of such payments to all five (5) debtors quarterly to the MREC office. Full repayment of the debts should be made no later than December 11, 2017. Bennett is responsible for ensuring that the evidence of restitution of payments is reported to the Commission on or before January 10, April 10, July 10, and October 10, 2016 during the suspension period

20. Pursuant to Part III, paragraph A of the Disciplinary Order, Bennett was required to:

A. Make full repayment of the debts no later than December 11, 2017; and

B. Submit proof of such payments, quarterly to the MREC office.

21. Bennett failed to remit payment and to submit proof of payment to the MREC office.

22. Bennett violated the terms of Part III, paragraph A of Disciplinary Order 14-0423 RE PV and the terms and conditions of his discipline with the MREC because he failed to remit any payments and submit proof of payments to MREC, on a quarterly basis. Therefore, the MREC has sufficient grounds to impose additional discipline pursuant to § 324.042, RSMo.

WHEREFORE, Petitioner prays the MREC conduct a hearing pursuant to the terms of the Disciplinary Orders and § 324.042, RSMo, find that Bennett and MLSC have breached the terms of the Disciplinary Orders and violated the terms and conditions of their discipline, and impose such other lawful discipline as the MREC finds just and proper.

Respectfully submitted,

Joshua D. Hawley
Attorney General

/s/ Ross Kaplan

Ross Kaplan
Assistant Attorney General
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Attorneys for Petitioner

BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE Commission, Petitioner, v. MISSOURI LAND SALES COMPANY and JAMES W BENNETT, Respondents.	)))))))))))	No. 14-0423RE

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER

On or about September 8, 2014, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Missouri Land Sales Company and James W Bennett,* No. 14-0423RE. In that Default Decision, the Administrative Hearing Commission found that Respondents James W. Bennett's real estate broker officer license (license no. 1999056471) and Missouri Land Sales Company's real estate corporation license (license no. 000003571) are subject to disciplinary action by the Commission pursuant to § 339.100.2 (2), (3), (15), (16) and (19), RSMo.[1]

The Missouri Real Estate Commission ("Commission") has received and reviewed the record of the proceedings before the Administrative Hearing Commission including the properly pled compliant 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 December 3, 2014, at the Division of Professional Registration, 3605 Missouri Boulevard,

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

EXHIBIT
1

Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action against Respondents' licenses. All of the members of the Commission were present throughout the meeting. Twila Hillme participated through conference call. 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 Todd Lucas. Having received proper notice and opportunity to appear, Respondent James W. Bennett appeared in person without legal counsel. Respondent Missouri Land Sales Company 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. This Commission licensed Respondent James W. Bennett as real estate broker officer, license number 1999056471 and Respondent Missouri Land Sales Company as real estate corporation, license number 000003571. Respondents' licenses were current at all times relevant to the actions in the properly pled complaint.

3. The Commission hereby adopts and incorporates by reference the properly pled Complaint and the Default Decision of the Administrative Hearing Commission in *Missouri Land Sales Company and James W. Bennett,* No. 14-0423RE, in its entirety. In that Default Decision, the Administrative Hearing Commission determined that the Commission filed a properly pled complaint on or about April 4, 2014, that Respondents were served with the complaint and the Respondents never filed an answer or otherwise responded to the complaint.

4. The Commission set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondents in a proper and timely fashion. Respondent James W. Bennett appeared in person without legal counsel. Respondent Missouri Land Sales Company failed to appear through legal counsel at the hearing before the Commission.

5. In its September 8, 2014 Default Decision, the Administrative Hearing Commission found that the Commission had ground to discipline Respondents' licenses pursuant to § 339.100.2 (2), (3), (15), (16) and (19), RSMo, as established in the properly pled complaint.

II.

CONCLUSIONS OF LAW

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

7. The Commission expressly adopts and incorporates by reference the properly pled Complaint and Default Decision issued by the Administrative Hearing Commission dated September 8, 2014, in *Missouri Real Estate Commission v. Missouri Land Sales Company and James W. Bennett,* No. 14-0423RE, 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 September 8, 2014, Respondents' real estate licenses are subject to disciplinary action by the Commission pursuant to § 339.100.2 (2), (3), (15), (16) and (19) RSMo.

9. 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 James W. Bennett's broker officer license (license no 1999056471) and Missouri Land Sales Company's real estate corporation license (license no. 000003571) are hereby **SUSPENDED** for **THREE (3) YEARS** or until full restitution has been made to: Jon Tignor ($10,000), Farrel Hastey ($1,000), Charles Gerding, Jr ($4,500), Karla Simpson ($1,000), Barbara Brooks ($5,000). The period of suspension shall be followed by **THREE (3) YEARS PROBATION**. The period of suspension and probation shall constitute the "disciplinary period". During the period of probation, Respondents shall be entitled to practice only as a real estate broker and real estate corporation, respectively, under Chapter 339, RSMo, as amended, provided Respondents adhere to all terms of this Order.

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

A. All evidence of Respondents' licensure shall be immediately returned to the Commission along with a Closing of a Real Estate Brokerage/Sole Proprietorship form for Missouri Land Sales Company.

B. Within six (6) months after the date of this ORDER Respondent James W. Bennett shall make payments to Jon Tignor ($10,000), Farrel Hastey ($1,000), Charles Gerding, Jr ($4,500), Karla Simpson ($1,000), Barbara Brooks ($5,000), Bennett shall and submit proof of such payments quarterly to the MREC office. Full repayment of the debts should be made no later than the end of the three (3) year suspension.

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

D. Respondents shall timely renew their real estate licenses, timely pay all fees required for license renewal and shall comply with all other requirements necessary to maintain their licenses in a current and active status. During the disciplinary period, Respondent James W. Bennett shall not place his real estate license 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 James W. Bennett may surrender his real estate license. After surrender, Respondent James W. Bennett 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.

E. Respondents 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.

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

G. Respondents 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 Respondents' real estate licenses under §339.532.2, RSMo, as amended, that accrues during the disciplinary period shall also constitute a violation of this Order.

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

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 Respondents 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 bide the Commission to restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Order that are either now know 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.

Respondents together with their 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 11th DAY OF December, 2014

MISSOURI REAL ESTATE COMMISSION

Janet Carder, Executive Director

Before the
Administrative Hearing Commission
State of Missouri

MISSOURI REAL ESTATE COMMISSION,	)	
Petitioner,	)	
vs.	)	No. 14-0423 RE
MISSOURI LAND SALES COMPANY and JAMES W. BENNETT,	)	
Respondents.	)	

DEFAULT DECISION

On April 4, 2014, Petitioner filed a properly pled complaint seeking to discipline Respondents. Respondents were served with a copy of the complaint and our notice of complaint/notice of hearing by personal service on May 28, 2014.

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, RSMo (Supp. 2013), 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 September 8, 2014.

Sreenivasa Rao Dandamudi

SREENIVASA RAO DANDAMUDI
Commissioner

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED
APR 04 2014
ADMINISTRATIVE HEARING COMMISSION

No. 14-0423 RE

MISSOURI REAL ESTATE COMMISSION 3605 Missouri Boulevard P.O. Box 1339 Jefferson City, MO 65102 (573) 751-2628	)
Petitioner,	)
v.	)
MISSOURI LAND LAND SALES COMPANY 6170 Cedar Hill Road Cedar Hill, MO 63016	)
Serve on: James W. Bennett 6170 Cedar Hill Road Cedar Hill, MO 63016	)
and	)
JAMES W. BENNETT 6170 Cedar Hill Road Cedar Hill, MO 63016	)
Respondents.	)

COMPLAINT

Petitioner, Missouri Real Estate Commission ("MREC"), by and through its attorney, the Attorney General of Missouri, states its cause of

action against Missouri Land Sales Company ("MLSC") and James W. Bennett ("Bennett"):

Allegations Common to All Counts

1. The MREC is an agency of the state of Missouri created and existing pursuant to Section 339.120, RSMo, for the purpose of executing and enforcing the provisions of Sections 339.010 to 339.180 and Sections 339.710 to 339.855, RSMo (as amended), relating to real estate salespersons and brokers.

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

3. Bennett is licensed as a Real Estate Broker Officer, license no. 1999056471. At all times relevant herein, Bennett's real estate license was current and active.

4. MLSC is licensed as a Real Estate Corporation, license no. 000003571. At all times relevant herein, MLSC's real estate license was current and active.

5. MLSC is a Missouri corporation, charter number 00233285.

6. Bennett and MLSC's registered address is 6170 Cedar Hill Road, Cedar Hill, Missouri 63016.

7. Bennett is the designated broker for MLSC, and as such, bears

responsibility for his own conduct as well as that of MLSC and its affiliates, pursuant to 20 CSR 2250-8020(1), which states in part:

> Individual brokers, designated brokers, and office managers/supervising brokers shall be responsible for supervising the real estate related activities including the protection of any confidential information as defined under 339.710.8, RSMo of all licensed and unlicensed persons associated with them, whether in an individual capacity or through a corporate entity, association or partnership.

8. Section 339.710(12), RSMo, defines the term "designated broker" and provides:

> **"Designated broker"**, any individual licensed as a broker who is operating pursuant to the definition of "real estate broker" as defined in section 339.010, or any individual licensed as a broker who is appointed by a partnership, association, limited liability corporation, or a corporation engaged in the real estate brokerage business to be responsible for the acts of the partnership, association, limited liability corporation, or corporation. Every real estate partnership, association, or limited liability corporation, or corporation shall appoint a designated broker[.]

Applicable Law

9. The MREC hereby re-alleges and incorporates paragraphs 1 through 8 of this Complaint as though fully set forth herein.

10. Section 339.100.2, RSMo Supp. 2013, provides in relevant part:

> 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:

(2) Making substantial misrepresentations or false promises or suppression, concealment or omission of material facts in the conduct of his or her business or pursuing a flagrant and continued course of misrepresentation through agents, salespersons, advertising or otherwise in any transaction;

(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 §§ 339.010 to 339.180 and §§ 339.710 to 339.860, or of any lawful rule adopted pursuant to §§ 339.010 to339.180 and §§ 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;

***

(18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence[.]

11. Section 339.040, RSMo. Supp. 2013, states in pertinent part:

1. Licenses shall be granted only to persons who present, and corporations, associations, partnerships, limited partnerships, limited liability companies, and professional corporations whose officers, managers, associates, general partners, or members who actively participate in such entity's brokerage, broker-salesperson, or salesperson business present, satisfactory proof to the commission that they:

(1) Are persons of good moral character; and
(2) Bear a good reputation for honesty, integrity, and fair dealing; and
(3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

12. State Regulation 20 CSR 2250-8.170(1) 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.

Count I-Tignor Complaint

13. The MREC hereby re-alleges and incorporates paragraphs 1 through 12 of this Complaint as though fully set forth herein.

14. In February 2011, Jon Tignor asked that Bennett represent him in purchasing residential property located at 7322 Field Ave., St. Louis,

Missouri 63116.

15. Tignor gave Bennett a cashier's check in the amount of $10,000 to use as earnest money in negotiations for the purchase of the 7322 Field Ave. property.

16. In early March 2011, the cashier's check was negotiated and endorsed with Missouri Land Sale's signature.

17. Tignor inquired about the status of the negotiations, and Bennett told Tignor that Tignor's offer had been accepted and title work was being performed.

18. Nearly a week later, Tignor attempted to contact Bennett again, but Bennett never answered Tignor's phone calls.

19. Eventually, Tignor contacted the seller's agent directly and was informed that Bennett had never made a contract offer for the 7322 Field Ave. property.

20. After Tignor made a formal demand, Bennett never returned the earnest money to Tignor.

21. On August 29, 2011, Tignor filed a complaint with the MREC regarding Bennett's conduct.

22. On August 29, 2011, the MREC sent Bennett a letter, by certified mail, to Bennett's registered address asking Bennett to respond to Tignor's complaint in writing. The MREC received a return receipt showing that the

certified mail had been signed for by Monica Bennett on August 30, 2011.

23. On October 11, 2011, the MREC sent a second letter to Bennett's registered address requesting a response and advising Bennett that he could be in violation of State Regulation 20 CSR 2250-8.170(1) if he failed to respond in writing within thirty days.

24. The MREC never received a written response from Bennett regarding the Tignor complaint.

25. Bennett's failure to account for and remit money owed to Tignor, substantial misrepresentation to Tignor, and failure to respond to the MREC regarding Tignor's complaint constitutes cause to discipline MLSC's and Bennett's licenses pursuant to Section 339.100.2(2), (3), and (15), RSMo. Supp. 2013.

Count II-Hasty Complaint

26. The MREC hereby re-alleges and incorporates paragraphs 1 through 25 of this Complaint as though fully set forth herein.

27. On March 8, 2011, Farrel Hasty entered into a contract with Bennett and MLSC to represent her in purchasing property located at 7881 Woodland Dr., Dittmer, Missouri 63023.

28. Hasty gave Bennett a check in the amount of $1,000 to use as earnest money in negotiations for the 7881 Woodland Dr. property.

29. The check was negotiated and endorsed with the signature of

Missouri Land Sales Company.

30. Hasty's contract for 7881 Woodland Dr. was not accepted, and a mutual release was signed by all parties involved authorizing release of the earnest money.

31. Bennett never returned the earnest money to Hasty as requested.

32. On March 5, 2012, Hasty filed a complaint with the MREC regarding Bennett's conduct.

33. On March 6, 2012, the MREC sent Bennett a letter, by certified mail, to Bennett's registered address asking Bennett to respond to Hasty's complaint in writing. The MREC received a return receipt showing that the certified mail had been signed for by D. Bennett.

34. On May 2, 2012, the MREC sent a second letter to Bennett's registered address requesting a response and advising Bennett that he could be in violation of State Regulation 20 CSR 2250-8.170(1) if he failed to respond in writing within thirty days.

35. The MREC never received a written response from Bennett regarding the Hasty complaint.

36. Bennett's failure to account for and remit money owed to Hasty and failure to respond to the MREC regarding Hasty's complaint constitutes cause to discipline MLSC's and Bennett's licenses pursuant to Section 339.100.2(2), (3), and (15), RSMo. Supp. 2013.

Count III-Gerding Complaint

37. The MREC hereby re-alleges and incorporates paragraphs 1 through 36 of this Complaint as though fully set forth herein.

38. On or about June 10, 2011, Charles Gerding, Jr. gave Bennett a check for $4,500 representing what Gerding, Jr. believed to be the earnest money required to place an offer on property located at 9737 Jones Creek Road, Dittmer, Missouri, 63023.

39. Bennett represented to Gerding, Jr. that, because the United States Department of Housing and Urban Development (HUD) was involved with the property, a payment of ten percent, or $4,500, in earnest money was required. However, HUD only required a $500 down payment for the 9737 Jones Creek Road property.

40. The check was negotiated and endorsed with the signature of Missouri Land Sales Company.

41. HUD never received a check from Bennett.

42. After Gerding, Jr. requested Bennett to return his money, Bennett never did.

43. On September 19, 2011, Gerding, Jr. filed a complaint with the MREC regarding Bennett's conduct.

44. On September 20, 2011, the MREC sent Bennett a letter, by certified mail, to Bennett's registered address asking Bennett to respond to

Gerding, Jr.'s complaint in writing. The MREC received a return receipt showing that the certified mail had been signed for by Monica Bennett.

45. On November 9, 2011, the MREC sent a second letter to Bennett's registered address requesting a response and advising Bennett that he could be in violation of State Regulation 20 CSR 2250-8.170(1) if he failed to respond in writing within thirty days.

46. The MREC never received a written response from Bennett regarding the Gerding, Jr. complaint.

47. Bennett's failure to account for and remit money owed to Gerding, Jr., substantial misrepresentation to Gerding, Jr. and failure to respond to the MREC regarding Gerding, Jr.'s complaint constitutes cause to discipline MLSC's and Bennett's licenses pursuant to Section 339.100.2(2), (3), and (15), RSMo. Supp. 2013.

Count IV- Simpson Complaint

48. The MREC hereby re-alleges and incorporates paragraphs 1 through 47 of this Complaint as though fully set forth herein.

49. On or about August 15, 2011, Karla Simpson hired Bennett to represent her in purchasing property located at 525 Pendleton Lost Creek Road, Warrenton, Missouri 63383.

50. Simpson gave Bennett a check in the amount of $1,000 to use as earnest money to help purchase the 525 Pendleton Lost Creek Road property.

51. In August 2011, Bennett negotiated and endorsed the check.

52. When the attempt to purchase 525 Pendleton Lost Creek Road fell through, Simpson requested the $1,000 back from Bennett.

53. When Simpson requested the return of the $1,000 earnest money, Bennett represented to Simpson that the seller of 525 Pendleton Lost Creek Road had to sign written papers authorizing the release of the $1,000 earnest money.

54. Upon Simpson's second request, Bennett informed Simpson that the 525 Pendleton Lost Creek Road seller had still not signed the authorization papers.

55. After a third request, Bennett told Simpson that he was closing on a sale that day or the next and would have Simpson's money for her soon.

56. Bennett did not need written authorization from the 525 Pendleton Lost Creek Road seller to release the $1,000 earnest money to Simpson.

57. Bennett never returned the money to Simpson.

58. On June 4, 2012, Simpson filed a complaint with the MREC regarding Bennett's conduct.

59. On June 5, 2012, the MREC sent Bennett a letter, by certified mail, to Bennett's registered address asking Bennett to respond to Simpson's complaint in writing. The MREC received a return receipt showing that the

certified mail had been signed for by Darold Bennett.

60. On July 11, 2012, the MREC sent a second letter to Bennett's registered address requesting a response and advising Bennett that he could be in violation of State Regulation 20 CSR 2250-8.170(1) if he failed to respond in writing within thirty days.

61. The MREC never received a written response from Bennett regarding the Simpson complaint.

62. Bennett's failure to account for and remit money owed to Simpson, substantial misrepresentation to Simpson, and failure to respond to the MREC regarding Simpson's complaint constitutes cause to discipline MLSC's and Bennett's licenses pursuant to Section 339.100.2(2), (3), and (15), RSMo. Supp. 2013.

Count V-Brooks Complaint

63. The MREC hereby re-alleges and incorporates paragraphs 1 through 62 of this Complaint as though fully set forth herein.

64. On or about July 24, 2013, Barbara Brooks entered into a contract with Bennett and MLSC to represent her in purchasing property located at 6971 White Road, Hillsboro, Missouri 63050.

65. Brooks gave Bennett a check in the amount of $5,000 to use as earnest money in negotiations for the 6971 White Road property.

66. Brooks' offer was not accepted, and Bennett never returned the

earnest money to Brooks as was requested.

67. On October 18, 2013, Brooks filed a complaint with the MREC regarding Bennett's conduct.

68. On October 18, 2013, the MREC sent Bennett a letter, by certified mail, to Bennett's registered address asking Bennett to respond to Brooks' complaint in writing. The MREC received a return receipt indicating the complaint had been signed for by Zach Cash.

69. On December 16, 2013, the MREC sent a second letter to Bennett's registered address requesting a response and advising Bennett that he could be in violation of State Regulation 20 CSR 2250-8.170(1) if he failed to respond in writing within thirty days.

70. The MREC never received a written response from Bennett regarding the Brooks complaint.

71. Bennett's failure to account for and remit money owed to Hasty and failure to respond to the MREC regarding Brooks' complaint constitutes cause to discipline MLSC's and Bennett's licenses pursuant to Section 339.100.2(2) and (15), RSMo. Supp. 2013.

Count VI-Mydlo Complaint

72. The MREC hereby re-alleges and incorporates paragraphs 1 through 71 of this Complaint as though fully set forth herein.

73. On or about October 10, 2013, Ron Mydlo entered into a contract

with Bennett and MLSC to represent him in purchasing property located at 440 Hill Drive Ct., Eureka, Missouri 63025.

74. Bennett represented to Mydlo that he was also the seller's agent for the 440 Hill Drive Ct. property.

75. On or about October 10, 2013, Mydlo gave a $2,500 earnest money check to Bennett with the initial contract and another $2,500 earnest money check on or about October 17, 2013 when Bennett represented to Mydlo that the seller had signed the acceptance of the contract.

76. When Hillsboro Title Company reached out to the seller to arrange a closing date, it was subsequently informed that the seller had never entered into a contract for sale and never entered into a contract for representation by Bennett.

77. When the closing was cancelled, Mydlo requested a return of his earnest money checks.

78. Mydlo made repeated demands of Bennett for the return of his money, but it was not until January 30, 2014 that Bennett finally returned the $5,000 to Mydlo.

79. On January 6, 2014, Mydlo filed a complaint with the MREC regarding Bennett's conduct.

80. On January 7, 2014, the MREC sent Bennett a letter, by certified mail, to Bennett's registered address asking Bennett to respond to Mydlo's

complaint in writing. The MREC received a return receipt showing that the certified mail had been signed for by Miranda Bennett on January 14, 2014.

81. On February 21, 2014, the MREC sent a second letter to Bennett's registered address requesting a response and advising Bennett that he could be in violation of State Regulation 20 CSR 2250-8.170(1) if he failed to respond in writing within thirty days.

82. The MREC never received a written response from Bennett regarding the Mydlo complaint.

83. Bennett's failure to account for and remit money owed to Mydlo, substantial misrepresentation to Mydlo and failure to respond to the MREC regarding Mydlo's complaint constitutes cause to discipline MLSC's and Bennett's licenses pursuant to Section 339.100.2(2), (3), and (15), RSMo. Supp. 2013.

Count VII-Bennett's Passing Bad Checks Convictions

84. The MREC hereby re-alleges and incorporates paragraphs 1 through 83 of this Complaint as though fully set forth herein.

85. On January 5, 2011, Bennett pled guilty in Franklin County, Missouri Circuit Court, Case No. 11AB-CR01623, to one Class A Misdemeanor for Passing a Bad Check for Less than $500, in violation of Section 570.120, RSMo Supp. 2012.

86. The facts underlying the criminal case as set forth in the

Misdemeanor Information were as follows, in pertinent part:

> On or about March 27, 2011, in the County of Franklin, State of Missouri, the defendant, with the purpose to defraud, passed a check in the amount of $200.00, drawn upon Bank of Hillsboro, payable to Wagners Store, knowing that it would not be paid.

87. Section 570.120(1), RSMo, states in relevant part:

> 1. A person commits the crime of passing a bad check when: (1) With purpose to defraud, the person makes, issues or passes a check or other similar sight order or any other form of presentment involving the transmission of account information for the payment of money, knowing that it will not be paid by the drawee, or that there is no such drawee[.]

88. After his guilty plea, on January 5, 2012, the court suspended execution of sentence and placed Bennett on supervised probation for a period of two (2) years.

89. On August 3, 2012, Bennett pled guilty in St. Francois, Missouri Circuit Court, Case No. 11SF-CR01801-01, to one Class C Felony for Passing a Bad Check for More than $500, in violation of Section 570.120, RSMo Supp. 2012.

90. The facts underlying the criminal case as set forth in the Felony Information were as follows, in pertinent part:

> On or about April 4, 2011, in the County of St. Francois, State of Missouri, the defendant passed a check, to-wit check number 331 made payable to Country Mart in the amount of Five Hundred Dollars or more, and the defendant failed to pay the check

> within ten (10) days after receiving actual notice in writing that it had not been paid because of insufficient funds within drawee bank.

91. Section 570.120(2), RSMo Supp. 2012, states in relevant part:

> 1. A person commits the crime of passing a bad check when . . . (2) The person makes, issues, or passes a check or other similar sight order or any other form of presentment involving the transmission of account information for the payment of money, knowing that there are insufficient funds in or on deposit with that account for the payment of such check, sight order, or other form of presentment involving the transmission of account information in full and all other checks, sight orders, or other forms of presentment involving the transmission of account information upon such funds then outstanding, or that there is no such account or no drawee and fails to pay the check or sight order or other form of presentment involving the transmission of account information within ten days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.

92. After his guilty plea, on August 3, 2012, the court suspended imposition of sentence and placed Bennett on supervised probation for a period of five (5) years.

93. Based on the conduct set forth herein and Bennett's guilty plea to one Class A misdemeanor for Passing a Bad Check for Less than $500 and to one Class C felony for Passing a Bad Check for More than $500, cause exists to discipline Bennett under Section 339.100.2(18), RSMo Supp. 2013.

COUNT V- Section 339.100.2(16), RSMo Supp. 2013

94. The MREC realleges and incorporates by reference paragraphs 1 through 93 as though fully set forth herein.

95. The conduct of Bennett and MLSC, individually and collectively, as alleged in each count of this Complaint, individually and collectively demonstrates that Bennett and MLSC lack good moral character, do not bear a reputation for honesty, integrity, and fair dealing and are not competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public, which provide grounds for cause to discipline the real estate licenses of Bennett and MLSC pursuant to Section 339.100.2(16), RSMo Supp. 2013.

COUNT VI- Section 339.100.2(19), RSMo Supp. 2013

96. The MREC realleges and incorporates by reference paragraphs 1 through 95 as though fully set forth herein.

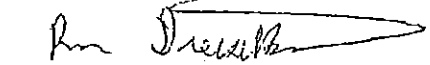
97. The conduct of Bennett and MLSC, individually and collectively, as alleged in each count of this Complaint, individually and collectively, constitutes untrustworthy, improper, and/or fraudulent business dealings and/or demonstrates bad faith, incompetence, misconduct, and/or gross negligence, provides cause to discipline the real estate licenses of Bennett and MLSC pursuant to Section 339.100.2(19), RSMo Supp. 2013.

WHEREFORE, Petitioner respectfully requests this Commission to

conduct a hearing in this cause pursuant to Chapter 621, RSMo, and thereafter to issue its findings of fact and conclusions of law determining that Petitioner may take disciplinary action against the real estate licenses of James W. Bennett and Missouri Land Sales Company for violations of Chapter 339, RSMo, and the regulations promulgated thereunder, and for such other and further relief this Commission deems just and proper.

Respectfully submitted,

CHRIS KOSTER
Attorney General



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ATTORNEYS FOR PETITIONER

BEFORE THE
MISSOURI REAL ESTATE COMMISSION
STATE OF MISSOURI

MISSOURI REAL ESTATE COMMISSION,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. 14-0423 RE PV
	)	
JAMES W. BENNETT,	)	
	)	
Respondent.	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER

Pursuant to notice the Missouri Real Estate Commission ("Commission") held a hearing on April 13, 2016, 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 were present throughout the meeting. The Commission was represented by Assistant Attorney General Felicia Crawford-Randle. Respondent was properly and timely notified of the hearing. Respondent James W. Bennett did appear individually without 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.

EXHIBIT
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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,[1] 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. James W. Bennett holds a broker officer license from the Commission, license no. 1999056471. Respondent's broker officer license was not current at all times relevant to this proceeding. Respondent's broker officer license was suspended on December 11, 2014.

3. On December 11, 2014, the Commission issued its Findings of Fact, Conclusions of Law and Disciplinary Order (Order) ordering that Bennett's license be suspended for three years or until full restitution has been made to: Jon Tignor ($10,000), Farrel Hastey ($1,000), Charles Gerding, Jr ($4,500), Karla Simpson ($1,000), Barbara Brooks ($5,000) prior to the conclusion of suspension period. The period of suspension is to be followed by three (3) years probation. The Order required James W. Bennett to submit proof of payments quarterly to the Commission regarding repayment of his debts. Bennett's license remains suspended because Bennett has not made full restitution. The Order also required Bennett to submit quarterly reports to the Commission demonstrating proof of his restitution payments.

4. James W. Bennett failed to submit quarterly reports to the Commission showing proof of payments being made, as required by Section III, Paragraph B of the Order. To date Bennet has submitted one report. That report only showed payment to one of the five individuals named in the Order.

5. James W. Bennett's failure to adhere to the terms of his probation by failing to submit

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

quarterly reports to the Commission showing proof of payments being made on his debt is a violation of Paragraph B of Section III of the Order which provides cause to further discipline James W. Bennett's license under § 324.042, RSMo.

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

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

8. On April 13, 2016, The Commission held the disciplinary violation hearing at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri. Bennett testified at the hearing. Bennett acknowledged that he failed to meet the requirements of the Order in that he failed to make restitution to all five (5) individuals and failed to submit quarterly reports to the Commission.

II.

CONCLUSIONS OF LAW

9. James W. Bennett's failure to adhere to the terms of his probation by failing to submit quarterly reports to the Commission showing proof of payments being made on his debt and failing to make payments to all five (5) debtors are violations of the terms of the Order which provides cause to further discipline James W. Bennett's license under § 324.042, RSMo.

10. Pursuant to § 324.042, RSMo and the Order page 7, the Commission has authority to impose additional discipline against James W. Bennett, for violating any disciplinary terms previously imposed or agreed to pursuant to the Order with the licensee.

11. 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.

12. 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.

13. The Commission finds Respondent James W. Bennett has violated the terms and conditions of the Order that became effective December 11, 2014 as a result of the conduct identified in the Findings of Fact set forth above.

14. 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:

15. The real estate license of Respondent James W. Bennett, license number 1999056471, shall remain **SUSPENDED** until full restitution as been made to: Jon Tignor ($10,000), Farrel Hastey ($1,000), Charles Gerding, Jr ($4,500), Karla Simpson ($1,000), Barbara Brooks ($5,000) or through December 11, 2017. The period of suspension shall now be followed by additional two (2) years probation for a total of **FIVE (5) YEARS PROBATION.** The period of suspension and probation shall constitute the "disciplinary period". During the period of probation, Respondent shall be entitled to practice only as a real estate broker and real estate corporation, respectively, under Chapter 339, RSMo, as amended, provided Respondents adhere to all terms of this Order.

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

A. Respondent James W. Bennett shall make payments to all of the following on at least a quarterly basis: Jon Tignor ($10,000); Farrel Hastey ($1,000); Charles Gerding, Jr ($4,500); Karla Simpson ($1,000); and Barbara Brooks ($5,000). Respondent shall submit evidence of such payments to all five (5) debtors quarterly to the MREC office. Full repayment of the debts shall be made no later than December 11, 2017. Bennett is responsible for ensuring that the evidence of restitution payments is reported to the Commission on or before January 10, April 10, July 10, and October 10 during the suspension period. Bennett shall submit the first such reporting by July 10, 2016.

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

C. Respondents shall timely renew their real estate licenses, timely pay all fees required for license renewal and shall comply with all other requirements necessary to maintain their licenses in a current and active status. During the disciplinary period, Respondent James W. Bennett shall not place his real estate license 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 James W. Bennett may surrender his real estate license. After surrender, Respondent James W. Bennett 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.

D. Respondent 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.

E. During the disciplinary 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 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 Respondents' real estate license under §339.532.2, RSMo, as amended, that accrues during the disciplinary period shall also constitute a violation of this Order.

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

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 Respondents 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 bide the Commission to restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Order that are either now know 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.

Respondents together with their 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.

16. 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 20th day of April 2016.

Joseph Denkler, Executive Director
Missouri Real Estate Commission

ADMINISTRATIVE DISSOLUTION OR REVOCATION FOR A FOR-PROFIT CORPORATION

00233285
MISSOURI LAND SALES COMPANY
Bennett, James W.
6170 Cedar Hill Road
Cedar Hill, MO 63016

August 28, 2013

MISSOURI LAND SALES COMPANY
00233285

The above corporation has failed to comply with Section 351.484 or 351.598 RSMo, by:

Failure to file a correct and current annual report

Therefore, the above corporation stands **administratively dissolved or revoked** under the provisions of Section 351.486 or Section 351.602, RSMo, as of August 28, 2013, subject to rescission as in these acts provided. **A corporation administratively dissolved may not carry on any business except that necessary to wind up and liquidate its business and affairs under Section 351.476.**

To request reinstatement forms please include your name, mailing address, telephone number, entity name and entity charter number by email to rescissions@sos.mo.gov, by fax at (573) 751-5841 or by calling toll free (866) 223-6535.

For further information, please contact the Corporations Division at (866) 223-6535 toll free.

Barbara J. Wood
Executive Deputy Secretary of State

EXHIBIT
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