

BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION)
)
) Petitioner,)
)
) v.) No. 18-0276 RE
)
)
) JAMES L. BOYD)
)
) Respondent.)

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

On or about July 23, 2018, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. James L. Boyd*, No. 18-0276 RE. In that Default Decision, the Administrative Hearing Commission found that Respondent James L. Boyd's real estate Inactive Salesperson license (license no. 1999057460) is subject to disciplinary action by the Missouri Real Estate Commission ("Commission") pursuant to § 339.100.2, (10), (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 October 10, 2018, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action against Respondent's license. All of the members of the Commission were present throughout

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

the meeting, except Charles Misko. Further, each member of this Commission has read the Default Decision of the Administrative Hearing Commission. The Commission was represented by Assistant Attorney General Ross Keeling. Respondent having received proper notice and opportunity to appear did not appear in person or through legal counsel. After being present and considering all of the evidence presented during the hearing, the Commission issues the following Findings of Facts, Conclusions of Law and Order.

Based upon the foregoing the Commission hereby states:

I.

FINDINGS OF FACT

1. The Commission is an agency of the state of Missouri created and established pursuant to § 339.120, RSMo, for the purpose of licensing all persons engaged in the practice as a real estate broker or salesperson in this state. The Commission has control and supervision of the licensed occupations and enforcement of the terms and provisions of §§ 339.010-339.205 and 339.710-339.855, RSMo.

2. The Commission hereby adopts and incorporates by reference the properly pled Complaint and the Default Decision of the Administrative Hearing Commission in *Missouri Real Estate Commission v. James L. Boyd* Case No. 18-0276 RE, issued July 23, 2018, in its entirety and takes official notice thereof.

3. The Commission set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondent in a proper and timely fashion. Respondent failed to appear in person or through legal counsel at the hearing before the Commission

4. This Commission licensed Respondent James L. Boyd as a real estate Inactive Salesperson, license number 1999057460. Respondent's Inactive Salesperson license was not

current at all times relevant to this proceeding. On September 30, 2016, Respondent's Inactive Salesperson license expired.

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 July 23, 2018, in *Missouri Real Estate Commission v. James L. Boyd*, Case No. 18-0276 RE, takes official notice thereof, and hereby enters its conclusions of law consistent therewith.

7. As a result of the foregoing, and in accordance with the Administrative Hearing Commission's Default Decision dated July 23, 2018, Respondent's real estate Inactive Salesperson license, number 1999057460, is subject to disciplinary action by the Commission pursuant to § 339.100.2 (10), (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 Inactive Salesperson license of James L. Boyd (license no. 1999057460) is hereby **REVOKED**. All evidence of Respondent's licensure shall be immediately returned to the Commission within 30 days of this Order.

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 24th DAY OF OCTOBER, 2018.

MISSOURI REAL ESTATE COMMISSION


Terry W. Moore, Executive Director

Before the
Administrative Hearing Commission
State of Missouri



REAL ESTATE COMMISSION

Petitioner,

v.

JAMES L. BOYD

Respondent,

No. 18-0276

DEFAULT DECISION

On April 23, 2018, 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 certified mail before May 4, 2018.

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 2016, we enter a default decision against Respondent establishing that Petitioner is entitled to the relief requested in the amended 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 July 23, 2018.


BRET W. BERRI
Commissioner

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

FILED May 21, 2018 ADMINISTRATIVE HEARING COMMISSION
--

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

Petitioner,)

v.)

James L. Boyd)
634 Spring Meadows Drive)
Ballwin, MO 63011)
Telephone: (636) 227-0586)

Respondent.)

Case # 18-0276

AMENDED 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 Respondents, 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 2016 Revised Statutes of Missouri, as amended, unless otherwise noted.

2. Respondent, James L. Boyd ("Boyd"), holds an inactive license as a real estate salesperson, license no. 1999057460. The Petitioner issued Boyd's Salesperson license on June 18, 1999. Boyd's real estate salesperson license was placed on inactive status on July 5, 2012, and expired on September 30, 2016.

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

4. Boyd submitted his 2016-2018 renewal application along with a \$ 40.00 check on June 5, 2017 requesting that his license be renewed.

5. Boyd's check (No. 1019) was returned unpaid to the MREC by the bank on June 13, 2017, and the MREC sent Boyd a bad check letter on June 19, 2018, which required him to send payment of the original \$ 40.00 fee, along with a replacement fee of \$25.00, within 30 days of June 19, 2017. Boyd did not respond to the bad check letter.

6. The MREC sent Boyd a rejection letter on June 20, 2017, rejecting his 2016-2018 license renewal, and requiring him to submit late fees in the amount of \$200.00, plus the original \$40.00 renewal fee and \$25.00 replacement fee, a total of \$265.00, to be postmarked within 3 weeks of the date of that letter. Boyd did not respond to the rejection letter.

7. The MREC sent Boyd a second bad check letter on July 25, 2017, demanding replacement of his original check with a cashier's check or money order within 30 days, threatening prosecution and collections through the Cole County Prosecuting Attorney's office. Boyd did not respond to the second bad check letter.

8. The MREC sent Boyd a letter with a proposed Settlement Agreement on November 20, 2017, requiring Boyd to respond by January 22, 2017. Boyd did not respond to the November 20, 2017 letter, or proposed Settlement Agreement.

9. As a result of Boyd's conduct, his license remains invalid until the appropriate fee and any additional costs are collected pursuant to § 324.031.2, RSMo, which states:

2. The division and its component agencies shall permit any licensee to submit payment for fees established by rule in the form of personal check, money order, or cashier's check. All checks or money orders shall be made payable to the appropriate board. Any check or financial instrument which is returned to the division or one of its agencies due to insufficient funds, a closed account, or for other circumstances in which the check or financial instrument is not honored may subject an individual to additional costs, substantial penalties, or other actions by the division or one of its agencies. **In such cases involving renewal of licenses, the renewal license may be withheld, and if issued, is not valid until the appropriate fee and any additional costs are collected.** The division may require the payment of collection costs or other expenses. The affected board may establish penalty fees by rule and may suspend or revoke a license if

such behavior is repetitive or the licensee fails to pay required penalty fees.

(Emphasis added.)

10. Section 339.100.2, RSMo, setting forth the grounds for discipline, provides in relevant part:

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621 against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

...

(10) Obtaining a certificate or registration of authority, permit or license for himself or herself or anyone else by false and fraudulent representation, fraud or deceit;

...

(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[.]

11. Boyd's attempt to pay his renewal fee with a check when insufficient funds were available to cover the check constitutes a false and/or fraudulent representation, and/or fraud, and/or deceit, thus cause exists to discipline his real estate license pursuant to § 339.100.2(10), RSMo.

12. Boyd's conduct set forth in paragraphs 5 through 8, above, shows that Boyd failed to respond within 30 days to MREC communications sent to him on June 19, June 20, July, 25, and November 20, 2017. Thus, cause exists to discipline Boyd's licenses pursuant to § 339.100.2(15), RSMo, because Boyd has failed to respond in writing to the MREC's written requests or inquiries, in violation of 20 CSR 2250-8.170(1), which provides in relevant part:

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.

13. Section 339.040, RSMo, establishes the criteria that must be established to hold a real estate license and states, in relevant part:

1. Licenses shall be granted only to persons who present, and corporations, . . . whose officers, . . . 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.

14. Boyd's failure to respond to MREC communications, as set forth above, and his failure to reimburse the MREC for the amount of a returned check he sent as a renewal fee, is evidence that Boyd 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, for the MREC to deny a license to Boyd, and thus provides cause for discipline under § 339.100.2(16), RSMo.

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

WHEREFORE, Petitioner prays this Administrative Hearing Commission to conduct a hearing in this case pursuant to sections 621.015 to 621.205, RSMo, and thereafter issue its findings of fact and conclusions of

law that the Petitioner may discipline Respondent James L. Boyd's real estate salesperson's license under Chapter 339, RSMo, and the regulations promulgated thereunder.

Respectfully submitted,

JOSHUA D. HAWLEY
Attorney General

/s/ Ross Keeling
ROSS KEELING
Assistant Attorney General
Missouri Bar No. 65361

207 West High Street
P.O. Box 899
Jefferson City, MO 65102
Telephone: (573) 751-1337
Facsimile: (573) 751-5660

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2018, a true and accurate copy of the foregoing was mailed postage prepaid, first class mail, to Respondent's last known address, as follows:

James L. Boyd
634 Spring Meadows Drive
Ballwin, MO

Ross Keeling
Assistant Attorney General

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STATE OF MISSOURI**

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

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/s/ Ross Keeling
ROSS KEELING
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207 West High Street
P.O. Box 899
Jefferson City, MO 65102
Telephone: (573) 751-1337
Facsimile: (573) 751-5660

Attorneys for Petitioner