

BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION)	
)	
Petitioner,)	
)	
v.)	No. 16-2484 RE
)	
)	
BRENDA ANN MORRIS and)	
BRENDA MORRIS PROPERTY MANAGEMENT LLC)	
Respondents.)	

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

On or about February 22, 2018, the Administrative Hearing Commission entered its Decision in the case of *Missouri Real Estate Commission v. Brenda Ann Morris and Brenda Morris Property Management LLC*, No. 16-2484 RE. In that Decision, the Administrative Hearing Commission found that Respondent Brenda Ann Morris’ real estate broker associate licenses (license nos. 1999031927 and 2008002689) and Brenda Morris Property Management LLC license (license no. 2008002687) are subject to disciplinary action by the Missouri Real Estate Commission (“Commission”) pursuant to § 339.100.2 (1), (2), (3), (7), (15), and (16) , RSMo.¹

The Commission has received and reviewed the record of the proceedings before the Administrative Hearing Commission including the 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 6, 2018, 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.

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 Decision of the Administrative Hearing Commission. The Commission was represented by Assistant Attorney General Craig Jacobs. Respondents having received proper notice and opportunity to appear, Respondent Brenda Ann Morris did appear in person without legal counsel. Respondent Brenda Morris Property Management LLC was not represented by 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 Decision, and the record of the Administrative Hearing Commission in *Missouri Real Estate Commission v. Brenda Ann Morris and Brenda Morris Property Management LLC*, Case No. 16-2484 RE, issued February 22, 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 Respondents in a proper and timely fashion. Respondent Brenda Ann

Morris did appear in person without legal counsel and Respondent Brenda Morris Property Management LLC was not represented by legal counsel at the hearing before the Commission.

4. This Commission licensed Respondent Brenda Ann Morris as a real estate broker associate, license numbers 1999031927 and 200802689 and Brenda Morris Property Management LLC, real estate association, license number 2008002687. Respondents' licenses were current at all times relevant to this proceeding.

II.

CONCLUSIONS OF LAW

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

6. The Commission expressly adopts and incorporates by reference the Decision issued by the Administrative Hearing Commission dated February 22, 2018, in *Missouri Real Estate Commission v. Brenda Ann Morris and Brenda Morris Property Management*, Case No. 16-2484 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 Decision dated February 22, 2018, Respondent's real estate broker associate license, numbers 1999031927 and 2008002689, and real estate association license number 2008002687 are subject to disciplinary action by the Commission pursuant to § 339.100.2 (1), (2), (3), (7), (15), and (16), 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 Decision of the Administrative Hearing Commission, it is the **ORDER** of the Commission that the real estate broker associate licenses of Brenda Ann Morris (license nos. 1999031927 and 2008002689) and the real estate association license of Brenda Morris Property Management are hereby placed on FIVE (5) YEARS PROBATION. During Respondents' probation, Respondents shall be entitled to practice under their respective licenses provided that Respondents 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. Respondents shall, within fifteen (15) calendar days of the effective date of this Order submit to the Commission office in writing a list of at least three CPAs, including name, address, and relationship to Respondents. The Commission may approve one or more the the listed CPAs or may require Respondents, on ground that are reasonable, to submit additional names for consideration and approval. Respondents shall, at their expense retain an approved CPA to conduct and complete the quarterly audit reports for the disciplinary period. The first such quarterly audit report shall begin with the quarter ending September 30, 2018 and continue through and conclude with the quarter ending June 30, 2019. Further, within 30 days of completion of each quarterly audit report, the CPA conduct and completing the audit report will mail to the Commission office by certified mail, return receipt requested, a signed statement from the CPA confirming that his/her firm completed a reconciliation of the accounts and matched the reconciled balance to the check register and the total of all reported owner and/or tenant balances. All documents necessary to provide the reconciliation should be submitted with the CPA's statement. If the CPA should find that the three-way reconciliation does not match, the CPA report should include the details and documentation.

B. Respondents are hereby ordered to pay a civil penalty of \$1,000 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.

C. Respondents shall keep the MREC apprised at all times, in writing, of Respondents’ current addresses and telephone numbers at each place of residence and business. Respondents shall notify the MREC 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 requirements necessary to maintain their licenses.

E. Respondents shall meet in person with the Commission or its representative 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. Respondents shall immediately submit documents showing compliance with the requirements of this Order to the Commission when requested by the Commission or its designee.

G. During the probationary 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.

H. Respondents shall comply with all relevant provisions of Chapter 339, RSMo, as amended; all rules and regulations duly promulgated under 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 Respondents’ licenses as a broker associate and real estate association under § 339.100.2, RSMo, as amended, that accrues during the disciplinary period shall constitute a violation of this Order.

I. Upon the expiration and successful completion of the disciplinary period, Respondents’ respective real estate broker associate and real estate association licenses shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the MREC determines that Respondents have 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 Respondents’ real estate broker associate or real estate association licenses.

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 8TH DAY OF JUNE, 2018.

MISSOURI REAL ESTATE COMMISSION



Terry W. Moore, Executive Director

represented MREC. Morris appeared *pro se*. No one represented BMPM. This case became ready for decision on October 23, 2017, the date Respondents' written brief was due.

Findings of Fact

1. Morris holds two licenses as a real estate broker associate. Morris's licenses are current and active, and were current and active at all relevant times.
2. BMPM holds a license as a real estate association. Morris is the designated broker for the BMPM. BMPM's license is current and active, and was current and active at all relevant times.
3. During the audit period, Respondents managed residential properties for Charles Stewart, an elderly man.
4. Respondents' management of Stewart's property included leasing individual units to tenants. The written leases Respondents entered into with tenants did not contain brokerage relationships disclosures, nor did they reference a brokerage relationship between Respondents and Stewart or identify sources of compensation.
5. Respondents held proceeds from rent of Stewart's properties in escrow accounts.
6. On December 29, 2014, MREC notified Respondents it had selected them for a random audit for the period from May 2014 to April 2015. Lori Flett, an Examiner II at MREC, conducted the audit.
7. As of December 29, 2014, Respondents disclosed to MREC that their alias was "Brenda Morris Property Management LLC." This is BMPM's only registered name with MREC.
8. At the time of the audit, BMPM maintained the following escrow accounts: Guaranty Bank, account no. :[X.485]; Guaranty Bank, account no. :[X.501]; Guaranty Bank, account no. [X.519]; Guaranty Bank, account no. [X.615]. Respondents failed to register these accounts with the MREC.

9. Shortly after Flett began the audit, Respondents registered their active escrow accounts with MREC.

10. At the time of the audit, Respondents managed 18 of Stewart's properties without current written agreements. Written agreements had expired without renewal for some properties, and some properties never had written agreements.

11. Respondents did not begin recording management fees it charged Stewart until January 2015.

12. Morris' son, Brent Morris, worked at three of Stewart's properties providing general services. These services included accepting rent after hours from tenants, responding to tenants' general concerns, performing repairs, and general upkeep of the property.

13. Brent Morris does not hold a Missouri real estate license.

14. Respondents did not have any documentation related to the services performed by Brent Morris or how they related to the payment he received.

15. During the audit period, Respondents paid Brent Morris \$66,749 for work he performed at Mr. Stewart's properties. Respondents made this payment based on a "ballpark figure" that Brent Morris would give at the end of each year for the value of his services.² Respondents paid Brent Morris from escrow account X.501 each month during the next year to reimburse him for these services. Neither the checks nor any other record for the transaction described the nature of the payments or how they related to Brent Morris' services.

16. Respondents did not disclose to Stewart their method for calculating Brent Morris' service fees.

17. In addition to management fees received from Stewart, Respondents paid Brent Morris management fees from its escrow accounts for working at Stewart's properties. Morris

² Tr. 69.

wrote the phrase "Mgmt" or some variant thereof on the memo line of some checks she wrote to Brent Morris.

18. For both services and management fees, Respondents paid Morris directly with checks from its escrow accounts. The checks reflected irregular³ payment figures.

19. On four occasions, Morris made personal payments from the escrow accounts Respondents held. She reimbursed the escrow account for personal payments with money she had coming into her personal accounts.

20. At some point after the audit concluded, Morris constructed a spreadsheet that purports to show how payments were related to services Brent Morris performed while working at Stewart's property. These costs included answering tenant calls for service and a wide variety of maintenance services.

21. During the final seven years of Respondents' management of his properties, the costs Stewart incurred for payments to Respondents and Brent Morris exceeded the returns from his properties. Stewart's daughter terminated Respondents' management of Stewart's properties while he was on his deathbed.

Conclusions of Law

We have jurisdiction over the MREC's complaint. Sections 339.100.2⁴ and 621.045. The MREC has the burden to prove that Respondents' licenses are subject to discipline. *Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989).

The MREC alleges in its complaint that there is cause to discipline Respondents' licenses under § 339.100.2, which provides in relevant part:

The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions

³ For instance, Brent Morris received checks for \$3,626.59 and \$701.95 in May 2014, one check for \$7886.82 in June 2014, two checks for \$5,329.06 and \$808.76 in July 2014, etc. Pet'r Ex. 8.

⁴ Statutory references, unless otherwise noted, are to the RSMo. Supp. 2016.

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:

(1) Failure to maintain and deposit in a special account, separate and apart from his or her personal or other business accounts, all moneys belonging to others entrusted to him or her while acting as a real estate broker or as the temporary custodian of the funds of others, until the transaction involved is consummated or terminated, unless all parties having an interest in the funds have agreed otherwise in writing;

(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;

* * *

(7) Paying a commission or valuable consideration to any person for acts or services performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860;

* * *

(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[.]

Count I – Failure to Register Escrow Accounts – Subdivision (15)

MREC alleges that Respondents failed to register all four of BMPM's escrow accounts with the MREC in violation § 339.105.2, which states:

Each broker shall notify the [MREC] of his or her intent not to maintain an escrow account, or the name of the financial institution

in which each escrow or trust account is maintained, the name and number of each such account, and shall file written authorization directed to each financial institution to allow the [MREC] or its authorized representative to examine each such account; such notification and authorization shall be submitted on forms provided therefor by the [MREC]. A broker shall notify the [MREC] within ten business days of any change of his or her intent to maintain an escrow account, the financial institution, account numbers, or change in account status.

Respondents admit they failed to register escrow accounts prior to the audit period. There is cause for discipline under § 339.100.2(15), for violation of § 339.105.2.

Count II – Records of Payments to Brent Morris – Subdivisions (2), (3) and (15)

Count II concerns Respondents' practice of compensating Brent Morris for services based on self-estimates for the value of his work each year. MREC alleges this conduct violates §§ 335.105.3, 339.730.1(2) – (4). Also, MREC argues this practice provides cause under 339.100.2(2).

Section 339.105.3 states:

In conjunction with each escrow or trust account a broker shall maintain books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The account and other records shall be provided to the commission and its duly authorized agents for inspection at all times during regular business hours at the broker's usual place of business.

Section 339.730 requires:

1. A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations:

* * *

(2) To exercise reasonable skill and care for the client[.]

“Substantial” is defined as “of or relating to the main part of something.” WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 2280 (unabr. 1986). Undoubtedly, Respondents' billing practice based on self-reported, undocumented estimates to justify payments in the tens of thousands of dollars would constitute a substantial omission. In fact, such a term is so

substantial that it strains belief that any reasonable party would accept it. This is particularly true for real estate agents who are required by law to keep such records. See §§ 339.105 and 339.537. As such, we believe that Respondents omitted details of its fee calculations from Stewart.

Morris claims to have made an agreement with Stewart, but she does not articulate the details of that agreement, nor did she provide any documentary evidence that such agreement existed. At hearing, Morris presented a spreadsheet constructed well after the payments she made to her son to justify those expenditures. She based those figures off work orders filled out by her son and suggests that he actually undercharged Stewart for the value of his work. Given these materials' late construction and the interests of their sources, we do not find these documents credible. Even if Brent Morris truly deserved the payments he received, that would not justify Respondents' billing practices and failure to disclose those practices to Stewart. Therefore, we find that Respondents at least omitted this information if not worse and find cause for discipline under § 339.100.2(2).

Respondents' failure to keep records of management fees prior to 2015 violates §339.105.3, and their failure to sufficiently document charges to Stewart reflects a failure to exercise reasonable skill and care for their client in violation of § 339.730.1(2). More generally, this behavior reflects a general failure to account for money it received from Stewart. For these violations, we find cause for discipline under § 339.100.2(3) and (15).

Count III – Payments to Brent Morris from Escrow
Account – Subdivisions (7) and (15)

MREC alleges that Respondents' practice of paying Brent Morris, who does not hold a real estate license, service and management fees directly from escrow accounts violates § 339.150.2, which provides:

No real estate licensee shall pay any part of a fee, commission or other compensation received by the licensee to any person for any service rendered by such person to the licensee in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real

estate, unless such a person is a licensed real estate salesperson regularly associated with such a broker, or a licensed real estate broker, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri.

At hearing, Morris admitted she paid Brent Morris for services he provided directly from the escrow account Respondents managed. The ability to take fees from an escrow account rests exclusively with the licensee. *See* § 339.105. By paying Brent Morris directly from the escrow account instead of an account belonging to Respondents, they paid a fee to an unlicensed person in violation of § 339.150.2. Therefore, we find cause for discipline under 339.100.2(7) and (15).

Count IV – Payment from escrow for Respondents’
Personal Expenses – Subdivisions (1) and (15)

MREC alleges Respondents violated § 339.105.1, which provides:

1. Each broker who holds funds belonging to another shall maintain such funds in a separate bank account in a financial institution which shall be designated an escrow or trust account. This requirement includes funds in which he or she may have some future interest or claim. Such funds shall be deposited promptly unless all parties having an interest in the funds have agreed otherwise in writing. No broker shall commingle his or her personal funds or other funds in this account with the exception that a broker may deposit and keep a sum not to exceed one thousand dollars in the account from his or her personal funds, which sum shall be specifically identified and deposited to cover service charges related to the account.

On four occasions, Morris made personal payments from the escrow accounts Respondents held. She reimbursed the escrow accounts with personal funds. Therefore, there is cause for discipline under 339.100.2(1) and (15).

Count V – Failure to Maintain Detailed Breakdown of
Management Fees Taken from Escrow Accounts – Subdivision (15)

MREC alleges that Respondents’ failure to keep records of management fees prior to January 2015 violates § 339.105.3. This count is cumulative with Count II. There is cause for discipline under § 339.100.2(15).

Count VI – Failure to Manage Properties Without a
Current Written Agreement – Subdivision (15)

MREC alleges Respondents violated § 339.780.2, which provides:

Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to establish a limited agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 339.730 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker.

Respondents admits they managed properties under expired agreements or no agreement at all.

There is cause for discipline under § 339.100.2(15), for violation of § 339.780.2.

Count VII – Conducting Business Under
Unregistered Names – Subdivision (15)

MREC argues that Respondents operated under the fictional names “Brenda Morris Property Management” and “Brenda Morris Property Mgmt,” but did not register those names in violation of 20 CSR 2250-4.030(1) and 20 CSR 2250-8.010(2).⁵ 20 CSR 2250-4.030(1) provides:

(1) Any broker doing business under any name other than the broker's legal name or any entity doing business under any name other than the name registered with the secretary of state, shall first comply with the provisions of sections 417.200–417.230, RSMo on the registration of fictitious names and shall furnish the commission a copy of the registration within ten (10) days of receipt of the official registration from the secretary of state.

20 CSR 2250-8.010(2) provides:

(2) A broker's business sign of sufficient size to identify it and bearing the name under which the broker or the broker's firm is licensed, or the regular business name, shall be displayed outside of the broker's regular place of business.

BMPM did business under the names “Brenda Morris Property Management” and “Brenda Morris Property Mgmt.” By omitting the suffix “LLC” and abbreviating Management to

⁵ All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

“Mgmt,” we find that BMPM sufficiently expressed itself under its registered name. We do not find cause for discipline under this count.

Count VIII – Failure to Disclose Brokerage Relationships to Tenants – Subdivision (15)

MREC alleges Respondents failed to disclose brokerage relationships to tenants of Stewart’s properties in violation of 20 CSR 2250-8.096(1), which provides:

(1) Licensees acting with or without a written agreement for brokerage services pursuant to sections 339.710 to 339.860, RSMo, are required to have such relationships confirmed in writing by each party to the real estate transaction on or before such party’s first signature to the real estate contract. Nothing contained herein prohibits the written confirmation of brokerage relationships from being included or incorporated into the real estate contract, provided that any addendum or incorporated document containing the written confirmation must include a separate signature section for acknowledging the written confirmation that shall be signed and dated by each party to the real estate transaction.

(A) Written confirmation must—

1. Identify the licensee’s brokerage relationship;
2. Identify the source or sources of compensation;
3. Confirm that the brokerage relationships, if required by rule or regulation, were disclosed to the seller/landlord and/or buyer/tenant or their respective agents and/or transaction brokers no later than the first showing, upon first contact, or immediately upon the occurrence of any change to that relationship;
4. Confirm the seller’s/landlord’s and buyer’s/tenant’s receipt of the Broker Disclosure Form prescribed by the commission;
5. Be signed and dated by the seller/landlord and buyer/tenant. If the landlord has entered into a written property management agreement pursuant to 20 CSR 2250-8.200–20 CSR 2250-8.210, the landlord shall not be required to sign the written confirmation; and
6. Be signed and dated by the disclosing licensees on or before the contract date. If a landlord’s agent or transaction broker is conducting property management pursuant to 20 CSR 2250-8.200–20 CSR 2250-8.210, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)–(e), sign the written confirmation on behalf of the landlord’s agent or transaction broker.

The written leases Respondents entered into with tenants did not contain written confirmation for disclosure of broker relationship. There is cause for discipline under § 339.100.2(15), for violation of 20 CSR 2250-8.096(1).

Count IX – Failure to Include Transaction Information
on Records of Disbursement – Subdivision (15)

MREC alleges Respondents failed to include transaction information on checks, check stubs, and other records of disbursement in violation of § 339.105.3. This count is cumulative with Count III. There is cause for discipline under § 339.100.2(15).

Count X – Moral Character, Reputation, Competence – Subdivision (16)

The MREC argues there is cause for discipline for committing any act which would be cause to deny a license. Section 339.040.1 permits the issuance of licenses to persons who:

- (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.

Good moral character is honesty, fairness, and respect for the law and the rights of others. *Hernandez v. State Board of Regis'n for the Healing Arts*, 936 S.W.2d 894, 899 n.1 (Mo. App., W.D. 1997). Respondents' failure to apprise Stewart of its highly untestable fee structure does not reflect honesty or fairness, especially for an elderly client who did not realize any profits from his relationship with Respondents for seven consecutive years.

“Reputation” means “the estimation in which one is generally held : the character commonly imputed to one as distinct from real or inherent character [.]” WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1929 (unabr. 1986). Reputation is not a person's actions; it is “the general opinion . . . held of a person by those in the community in which such person resides[.]” *State v. Ruhr*, 533 S.W.2d 656, 659 (Mo. App., K.C.D. 1976) (quoting Black's Law Dictionary,

Rev. 4th Ed., p. 1467-68). Reputation is “a consensus view of many people.” *Haynam v. Laclede Elec. Coop.*, 827 S.W.2d 200, 206 (Mo. banc 1992). The MREC presented no evidence as to Respondents’ reputation.

Competence, when referring to occupation, is “the actual ability of a person to perform in that occupation.” Section 1.020(9). In *Albanna v. State Bd. of Regis’n for the Healing Arts*, 293 S.W.3d 423, 435 (Mo. banc 2009), the court described incompetency as a “state of being” amounting to an inability or unwillingness to function properly. The *Albanna* court said that the evaluation necessitates a broader-scale analysis, taking into account the licensee’s capacities and successes. *Id.* Prior to the audit, Respondents kept no records of management fees. Respondents used an escrow account for personal finances on four occasions, and paid its unlicensed employees fees in violation of Chapter 339. These persistent behaviors reflect an unwillingness to follow the law and therefore constitute incompetency.

There is cause for discipline under § 339.100.2(16).

Count XI – Other Conduct – Subdivision (19)

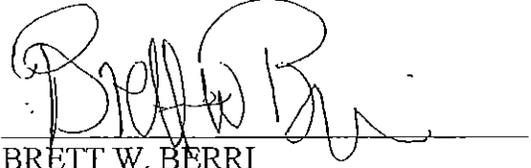
The MREC argues the aforementioned conduct provides cause for discipline under § 339.100.2(19). Section 339.100.2(19) authorizes discipline for “any other conduct which constitutes untrustworthy, improper or fraudulent business dealings or demonstrates bad faith or gross incompetence[.]” The adjective “other” means “not the same : DIFFERENT, any [other] man would have done better[.]”⁶ Therefore, subdivision (19) refers to conduct different than referred to in the remaining subdivisions of the statute. We have found that the conduct at issue is cause for discipline under other subdivisions. There is no “other” conduct. Therefore, we find no cause for discipline under § 339.100.2(19).

⁶ WEBSTER’S THIRD INTERNATIONAL DICTIONARY 1598 (unabr. 1986).

Summary

Respondents are subject to discipline under § 339.100.2(1), (2), (3), (7), (15), and (16).

SO ORDERED on February 22, 2018.

A handwritten signature in black ink, appearing to read "Brett W. Berri", written over a horizontal line.

BRETT W. BERRI
Commissioner

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

MAR 18 2016

ADMINISTRATIVE HEARING
COMMISSION

MISSOURI REAL ESTATE COMMISSION)
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P.O. Box 1339)
Jefferson City, MO 65102)
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Petitioner,)

v.)

Case No. _____

BRENDA A. MORRIS)
2401 West Calvin)
Ozark, MO 65721)
Telephone: (417) 551-4159 or (417) 844-9781)

and)

BRENDA MORRIS)
PROPERTY MANAGEMENT, LLC)
Serve: Craig F. Lowther, Registered Agent)
901 St. Louis Street, 20th Floor)
Springfield, MO 65806)
Telephone: (417) 866-7777)

Respondents.)

COMPLAINT

Petitioner, the Missouri Real Estate Commission ("MREC"), by and through its counsel, the Attorney General of the State of Missouri, states the following for its cause of action against Respondents, Brenda A. Morris ("Morris") and Brenda Morris Property Management, LLC ("the brokerage"):

1. The MREC is an agency of the State of Missouri created and existing pursuant to § 339.120, RSMo (Cum. Supp. 2013), for the purpose of executing and enforcing the provisions of §§ 339.010 to 339.205 and §§ 339.710 to 339.855, RSMo, as amended, relating to real estate salespersons and brokers.

2. Morris holds two licenses as a real estate broker associate, license no. 1999031927 and license no. 2008002689. Morris' licenses are current and active, and were current and active at all times relevant to this complaint.

3. Brenda Morris Property Management, LLC holds a license as a real estate association, license no. 2008002687.

4. Morris is the designated broker for Brenda Morris Property Management, LLC.

5. As designated broker, Morris bears responsibility for her own conduct as well as that of Brenda Morris Property Management, LLC.

6. References herein to Morris are also references to Brenda Morris Property Management, LLC, and vice versa.

7. Section 339.710(12), RSMo, defines the term "designated broker" as follows:

(12) "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;

8. State Regulation 20 CSR 2250 8.120(7) provides:

(7) The designated broker and the branch office manager shall be responsible for the maintenance of the escrow account and shall ensure the brokerage's compliance with the statutes and rules related to the brokerage escrow account(s).]

9. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 339.100.2, RSMo (Cum. Supp. 2013).

10. Section 339.100.2, RSMo (Cum. Supp. 2013), which provides the reasons that the MREC may discipline a real estate licensee, states in pertinent 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:

(1) Failure to maintain and deposit in a special account, separate and apart from his or her personal or other business accounts, all moneys belonging to

others entrusted to him or her while acting as a real estate broker or as the temporary custodian of the funds of others, until the transaction involved is consummated or terminated, unless all parties having an interest in the funds have agreed otherwise in writing;

(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;

...

(7) Paying a commission or valuable consideration to any person for acts or services performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860;

...

(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. Section 339.040.1, RSMo (Cum. Supp. 2013), regarding the qualifications of a real estate licensee, 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.

Facts Common to All Counts

12. Brenda Morris Property Management, LLC was selected by the MREC for a random audit of its real estate activities ("the audit").

13. The audit was conducted between April 20, 2015 and May 5, 2015, and covered a time period from May 1, 2014 through April 20, 2015.

14. At the time of the audit, Brenda Morris Property Management, LLC maintained the following escrow accounts:

- i. Guaranty Bank, account no. XXXXXXXX485;
- ii. Guaranty Bank, account no. XXXXXXXX501;
- iii. Guaranty Bank, account no. XXXXXXXX519 ;
- iv. Guaranty Bank, account no. XXXXXXXX615.

15. During the audit, the MREC's examiner found the following violations of Chapter 339, RSMo, and the regulations of the MREC:

Count I

16. The MREC realleges and incorporates by reference paragraphs 1 through 16 as though fully set forth herein.

17. Morris and/or Brenda Morris Property Management, LLC failed to register all four of the brokerage's property management escrow accounts with the MREC.

18. The failure of Morris and/or Brenda Morris Property Management, LLC to register the escrow accounts with the MREC is a violation of § 339.105.2, which states:

2. Each broker shall notify the commission of his or her intent not to maintain an escrow account, or the name of the financial institution in which each escrow or trust account is maintained, the name and number of each such account, and shall file written authorization directed to each financial institution to allow the commission or its authorized representative to examine each such account; such notification and authorization shall be submitted on forms provided therefor by the commission. A broker shall notify the commission within ten business days of any change of

his or her intent to maintain an escrow account, the financial institution, account numbers, or change in account status.

19. The failure of Morris and/or Brenda Morris Property

Management, LLC to register the escrow accounts with the MREC and sign a Consent to Examine form for each account is a violation of 20 CSR 2250-8.220(7), which states:

(7) In addition to the notification required by section 339.105.2, RSMo, each broker, upon the request of the commission or its agent, shall consent to the examination and audit of the broker's property management escrow account(s) by the commission or its agent. As part of the consent, each broker shall execute a form presented to him/her by the commission or its agent entitled Consent to Examine and Audit Escrow or Trust Account.

20. The violation of § 339.105.2, RSMo and 20 CSR 2250-8.220(7) by Morris and/or Brenda Morris Property Management, LLC provides cause for the MREC to discipline their licenses pursuant to § 339.100.2(15), RSMo.

Count II

21. The MREC realleges and incorporates by reference paragraphs 1 through 21 as though fully set forth herein.

22. During the audit period, Morris and/or Brenda Morris Property Management, LLC paid \$66,749.16 to Morris' son, Brent Morris, from escrow account no. XXXXXXXX501.

23. Morris claimed that the payments made to her son from escrow account no. XXXXXXXX501 were for maintenance services performed for a client of the brokerage, Charles Stewart.

24. However, neither Morris nor Brenda Morris Property Management, LLC had any documentation of the alleged services performed by Brent Morris.

25. Morris and/or Brenda Morris Property Management, LLC issued checks to Brent Morris based solely on his verbal statements regarding the amount due him from the brokerage for maintenance services. Morris and/or Brenda Morris Property Management, LLC did not request or obtain written documentation from Brent Morris of the maintenance services he allegedly performed.

26. Morris and/or Brenda Morris Property Management, LLC took no action to verify Brent Morris' billings before making payments to him from the escrow account.

27. Morris placed the interests of her son above those of her client(s).

28. By failing to obtain and/or maintain documentation of the amounts paid to Brent Morris from the escrow account for maintenance services, Morris and/or Brenda Morris Property Management, LLC violated § 339.105.3, RSMo and 20 CSR 2250-8.160, because the adequacy of said account could not be determined at the time of the audit.

29. Section 339.105.3, RSMo (Cum. Supp. 2013) states:

3. In conjunction with each escrow or trust account a broker shall maintain books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The account and other records shall be provided to the commission and its duly authorized agents for inspection at all times during regular business hours at the broker's usual place of business.

30. 20 CSR 2250-8.160(2), regarding record retention, states:

(2) Every broker shall retain for a period of at least three (3) years true copies of all property management agreements, correspondence or other written authorization relating to each real estate transaction relating to leases, rentals or management activities the broker has handled. The broker must also retain all business books, accounts and records unless these records are released to the owner(s) or transferred to another broker by written detailed receipt or transmittal letter agreed to in writing by all parties to the transaction.

31. By making payments to Brent Morris from the escrow account for maintenance services without obtaining proper documentation of the services allegedly performed by Brent Morris, Morris and/or Brenda Morris Property Management, LLC failed to exercise reasonable care for their client(s), failed to promote the interests of their client(s) with the utmost good faith, loyalty and fidelity, and/or failed to account for all money received on behalf of their client(s) in violation of § 339.730.1(2),(3), and (4), RSMo.

32. Section 339.730.1, RSMo states in pertinent part:

1. A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations:

(2) To exercise reasonable skill and care for the client;

(3) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including:

(a) Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease;

(b) Presenting all written offers to and from the client in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease;

(c) Disclosing to the client all adverse material facts actually known or that should have been known by the licensee; and

(d) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(4) To account in a timely manner for all money and property received[.]

33. The violation of § 339.105.3, RSMo, 20 CSR 2250-8.160, and § 339.730.1(2),(3) and (4), RSMo by Morris and/or Brenda Morris Property

Management, LLC provides cause for the MREC to discipline their licenses pursuant to § 339.100.2(15), RSMo.

34. By paying money to Brent Morris from the escrow account without obtaining documentation of the work allegedly performed by Brent Morris, Morris and/or Brenda Morris Property Management, LLC made substantial misrepresentations and/or suppressed, concealed or omitted material facts in the conduct of their business, providing cause for the MREC to discipline their licenses pursuant to § 339.100.2(2) RSMo.

35. By paying money to Brent Morris from the escrow account without obtaining documentation of the work allegedly performed by Brent Morris, Morris and/or Brenda Morris Property Management, LLC failed to account for money belonging to others, providing cause to discipline their licenses pursuant to § 339.100.2(3), RSMo.

Count III

36. The MREC realleges and incorporates by reference paragraphs 1 through 36 as though fully set forth herein.

37. Morris and/or Brenda Morris Property Management, LLC issued checks from escrow account no. XXXXXXXX501 and escrow account no. XXXXXXXX615 to Brent Morris for management fees.

38. Brent Morris does not hold a Missouri real estate license.

39. The payment of management fees to Brent Morris, an unlicensed person, by Morris and/or Brenda Morris Property Management, LLC is a violation of § 339.150.2, RSMo, which states:

2. No real estate licensee shall pay any part of a fee, commission or other compensation received by the licensee to any person for any service rendered by such person to the licensee in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate, unless such a person is a licensed real estate salesperson regularly associated with such a broker, or a licensed real estate broker, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri.

40. The violation of § 339.150.2, RSMo, by Morris and/or Brenda Morris Property Management, LLC provides cause for the MREC to discipline their licenses pursuant to § 339.100.2(15), RSMo.

41. The payment of management fees to Brent Morris, an unlicensed person, by Morris and/or Brenda Morris Property Management, LLC provides cause for the MREC to discipline their licenses pursuant to § 339.100.2(7), RSMo.

42. By paying money for management fees to Brent Morris, an unlicensed person, Morris and/or Brenda Morris Property Management, LLC made misrepresentations and/or suppressed, concealed or omitted material facts in the conduct of their business, providing cause for the MREC to discipline their licenses pursuant to § 339.100.2(2) RSMo.

43. By paying money for management fees to Brent Morris, an unlicensed person, Morris and/or Brenda Morris Property Management, LLC failed to account for money belonging to others, providing cause to discipline their licenses pursuant to § 339.100.2(3), RSMo.

Count IV

44. The MREC realleges and incorporates by reference paragraphs 1 through 44 as though fully set forth herein.

45. Morris and/or Brenda Morris Property Management, LLC issued payments from escrow account no. XXXXXXXX615 for Morris' personal expenses — check numbers 1047, 1048 and 1049 totaling \$215.65.

46. Morris and/or Brenda Morris Property Management, LLC issued a payment from escrow account no. XXXXXXXX615 for brokerage payroll — check number 1249 in the amount of \$280.00.

47. Morris and/or Brenda Morris Property Management, LLC issued a check from escrow account no. XXXXXXXX615 for a payroll advances — check number 1089 in the amount of \$280.00 and check number 1093 in the amount of \$50.00.

48. Morris and/or Brenda Morris Property Management, LLC issued payment from escrow account no. XXXXXXXX615 to a vendor for services performed on Morris' personal property — check number 1316 was issued to

Ultra Carpet Care in the amount of \$290.00, \$130.00 of which was for services on Morris' property.

49. By paying personal and brokerage expenses from the escrow account, Morris and/or Brenda Morris Property Management, LLC violated § 339.105.1, RSMo, which states:

1. Each broker who holds funds belonging to another shall maintain such funds in a separate bank account in a financial institution which shall be designated an escrow or trust account. This requirement includes funds in which he or she may have some future interest or claim. Such funds shall be deposited promptly unless all parties having an interest in the funds have agreed otherwise in writing. No broker shall commingle his or her personal funds or other funds in this account with the exception that a broker may deposit and keep a sum not to exceed one thousand dollars in the account from his or her personal funds, which sum shall be specifically identified and deposited to cover service charges related to the account.

50. The violation of § 339.105.1, RSMo by Morris and/or Brenda Morris Property Management, LLC provides cause for the MREC to discipline their licenses pursuant to § 339.100.2(15), RSMo.

51. The payment of personal and brokerage expenses from the escrow account by Morris and/or Brenda Morris Property Management, LLC also provides cause to discipline their licenses pursuant to § 339.100.2(1), RSMo.

Count V

52. The MREC realleges and incorporates by reference paragraphs 1 through 52 as though fully set forth herein.

53. During the audit period, Morris and/or Brenda Morris Property Management, LLC did not maintain a detailed breakdown of the management fees taken from the brokerage's escrow accounts.

54. Prior to January 2015, Morris and/or Brenda Morris Property Management, LLC did not keep any record of management fees paid to the brokerage.

55. In January 2015, Morris and/or Brenda Morris Property Management, LLC began keeping a disbursement journal; however, all of the escrow accounts held by the brokerage were included in one journal, and the journal did not reference the escrow account that the management fee payments were made from or the check numbers.

56. The failure of Morris and/or Brenda Morris Property Management, LLC to maintain adequate documentation of the management fees paid to the brokerage from the escrow accounts violated § 339.105.3, RSMo and 20 CSR 2250-8.160.

57. The violation of § 339.105.3, RSMo, and 20 CSR 2250-8.160 by Morris and/or Brenda Morris Property Management, LLC provides cause for the MREC to discipline their licenses pursuant to § 339.100.2(15), RSMo.

Count VI

58. The MREC realleges and incorporates by reference paragraphs 1 through 58 as though fully set forth herein.

59. Morris and/or Brenda Morris Property Management, LLC managed eighteen properties without a current written agreement with the owners of the properties.

60. Morris and/or Brenda Morris Property Management, LLC used a management agreement form that included a specific termination date and did not allow for automatic renewal.

61. Out of the eighteen properties managed by Morris and/or Brenda Morris Property Management, LLC without a written agreement during the audit period, eleven were due to the expiration of the management agreement.

62. Properties managed without a written agreement were as follows:

- i. 1137 S. John, Springfield —management agreement expired May 10, 2013, and was not renewed until August 9, 2014;
- ii. 1956-1958 Farm Rd. 123, Springfield — management agreement expired November 15, 2013, and was not renewed until July 31, 2014;

- iii. 1968-1970 Farm Rd. 123, Springfield — management agreement expired November 15, 2013, and was not renewed until July 31, 2014;
- iv. 5101-5137 N 23rd (no city identified) — management agreement expired August 7, 2012, and was not renewed until August 3, 2014;
- v. 2401-2439 W Calvin (no city identified) — management agreement expired August 7, 2012, and was not renewed until August 3, 2014;
- vi. 5230 S. Scenic, Springfield — management agreement expired August 31, 2010, and was not renewed until August 11, 2014;
- vii. 132-1331 W Sackett, Springfield — management agreement expired February 1, 2014, and was not renewed until July 31, 2014;
- viii. 6849 W Dogwood (no city identified) — management agreement expired July 10, 2012, and was not renewed until July 17, 2014;
- ix. 1035 E. Linwood Terrace, Springfield — management agreement expired February 21, 2012, and was not renewed until January 7, 2015;

- x. 1036 E. Linwood Terrace, Springfield — management agreement expired February 21, 2012, and was not renewed until January 7, 2015;
- xi. 5551-5597 N Green, Ozark — management agreement expired October 1, 2012, and was not renewed until July 30, 2014;
- xii. 1623A-1746A E Caravan (no city identified) — no agreement until August 3, 2014;
- xiii. 3410 W Farm Rd 148, Springfield — no agreement;
- xiv. 20435 Sagamont (no city identified) — no agreement;
- xv. 1432 W Wayland (no city identified) — no agreement;
- xvi. 1022 W Lindberg (no city identified) — no agreement;
- xvii. 2001 S Glencrest (no city identified) — no agreement;
- xviii. 2329 S Clay (no city identified) — no agreement;

63. The failure of Morris and/or Brenda Morris Property Management, LLC to have written property management agreements for properties that they managed is a violation of § 339.780.2, RSMo, and 20 CSR 2250-8.200.

64. Section 339.780.2, RSMo (Cum. Supp. 2013) states:

2. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to establish a limited agency relationship

with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 339.730 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker.

65. 20 CSR 2250-8.200(1), regarding written property management agreements or authorizations, states:

(1) When managing property a licensee shall not rent or lease, offer to rent or lease, negotiate, or offer or agree to negotiate, the rent or lease, list or offer to list for lease or rent, assist or direct in procuring of prospects calculated to result in the lease or rent, assist or direct in the negotiation of any transaction calculated or intended to result in the lease or rent, or show that property to prospective renters or lessees unless the licensee's broker holds a current written property management agreement or other written authorization signed by the owner of the real estate or the owner's authorized agent.

66. The violation of § 339.780.2, RSMo, and 20 CSR 2250-8.200 by Morris and/or Brenda Morris Property Management, LLC provides cause for the MREC to discipline their licenses pursuant to § 339.100.2(15), RSMo.

Count VII

67. The MREC realleges and incorporates by reference paragraphs 1 through 71 as though fully set forth herein.

68. Morris and/or Brenda Morris Property Management, LLC conducted business under the fictitious names "Brenda Morris Property Management" and "Brenda Morris Property Mgmt," which are not names under which the brokerage is licensed and which are not registered with the MREC as fictitious business names.

69. The brokerage's business sign contained the name "Brenda Morris Property Management."

70. Morris has not registered the fictitious names "Brenda Morris Property Management" or "Brenda Morris Property Mgmt" with the Missouri Secretary of State.

71. The use of fictitious names that were not properly registered with the Secretary of State by Morris and/or Brenda Morris Property Management, LLC is a violation of 20 CSR 2250-4.030(1), which states:

72. 20 CSR 2250-4.030(1), regarding the use of fictitious names, states:

(1) Any broker doing business under any name other than the broker's legal name or any entity doing business under any name other than the name registered with the secretary of state, shall first comply with the provisions of sections 417.200-417.230, RSMo on the registration of fictitious names and shall furnish the commission a copy of the registration within ten (10) days of receipt of the official registration from the secretary of state.

73. The use of fictitious names on the brokerage's sign under which the brokerage was not licensed and which were not registered with the MREC as fictitious names is a violation of 20 CSR 2250-8.010(2), which states:

74. 20 CSR 2250-8.010(2), regarding business signage, states:

(2) A broker's business sign of sufficient size to identify it and bearing the name under which the broker or the broker's firm is licensed, or the regular business name, shall be displayed outside of the broker's regular place of business.

75. The violation of 20 CSR 2250-4.030(1) and 20 CSR 2250-8.010(2) by Morris and/or Brenda Morris Property Management, LLC provides cause for the MREC to discipline their licenses pursuant to § 339.100.2(15), RSMo.

Count VIII

76. The MREC realleges and incorporates by reference paragraphs 1 through 76 as though fully set forth herein.

77. Morris and/or Brenda Morris Property Management, LLC failed to make a brokerage relationship disclosure to tenants in all seventeen of the leases reviewed by the MREC's examiner.

78. The failure of Morris and/or Brenda Morris Property Management, LLC to make a brokerage relationship disclosure to tenants is a violation of 20 CSR 2250-8.096(1), which states:

(1) Licensees acting with or without a written agreement for brokerage services pursuant to sections 339.710 to 339.860, RSMo, are required to have such relationships confirmed in writing by each party to the real estate transaction on or before such party's first signature to the real estate contract. Nothing contained herein prohibits the written confirmation of brokerage relationships from being included or incorporated into the real estate contract, provided that any addendum or incorporated document containing the written confirmation must include a separate signature section for acknowledging the written confirmation that shall be signed and dated by each party to the real estate transaction.

(A) Written confirmation must—

1. Identify the licensee's brokerage relationship;
2. Identify the source or sources of compensation;
3. Confirm that the brokerage relationships, if required by rule or regulation, were disclosed to the seller/landlord and/or buyer/tenant or their respective agents and/or transaction brokers no later than the first showing, upon first contact, or immediately upon the occurrence of any change to that relationship;
4. Confirm the seller's/landlord's and buyer's/tenant's receipt of the Broker Disclosure Form prescribed by the commission;
5. Be signed and dated by the seller/landlord and buyer/tenant. If the landlord has entered into a written property management agreement pursuant to 20 CSR 2250-8.200-20 CSR 2250-8.210, the landlord shall not be required to sign the written confirmation; and

6. Be signed and dated by the disclosing licensees on or before the contract date. If a landlord's agent or transaction broker is conducting property management pursuant to 20 CSR 2250-8.200-20 CSR 2250-8.210, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), sign the written confirmation on behalf of the landlord's agent or transaction broker.

(B) A signed copy shall be given to the seller/landlord and buyer/tenant and a signed copy shall be retained by the disclosing licensee's broker. If any party to the real estate transaction refuses to sign the confirmation, the licensee working with that party pursuant to 339.710 to 339.860, RSMo, shall set forth, sign and date a written explanation of the facts of refusal and the explanation shall be retained by the licensee's broker.

79. The violation of 20 CSR 2250-8.096(1) by Morris and/or Brenda Morris Property Management, LLC provides cause for the MREC to discipline their licenses pursuant to § 339.100.2(15), RSMo.

Count IX

80. The MREC realleges and incorporates by reference paragraphs 1 through 80 as though fully set forth herein.

81. In numerous instances during the audit period, Morris and/or Brenda Morris Property Management, LLC failed to include information about related transactions on checks, check stubs or other records of disbursement.

82. In at least fourteen instances, Morris and/or Brenda Morris Property Management, LLC failed to include a related transaction on deposit tickets.

83. The failure of Morris and/or Brenda Morris Property Management, LLC to include related transactions on checks, check stubs, records of disbursement and deposit tickets is a violation of 20 CSR 2250-8.220(8), which states:

(8) Each check written on an escrow account, or each corresponding check stub, or other record of disbursement of funds from the account and each deposit ticket shall indicate the related transaction. Each check written on an escrow account for licensee fees or commission shall be made payable to the licensee who is owed the fee or commission or to the firm's general operating account.

84. The failure of Morris and/or Brenda Morris Property Management, LLC to include related transactions on checks, check stubs, records of disbursement and deposit tickets is a violation of § 339.105.3, RSMo.

85. The violation of 20 CSR 2250-8.220(8) and § 339.105.3, RSMo by Morris and/or Brenda Morris Property Management, LLC provides cause for the MREC to discipline their licenses pursuant to § 339.100.2(15), RSMo.

Count X

86. The MREC realleges and incorporates by reference paragraphs 1 through 90 as though fully set forth herein.

87. The conduct of Brenda Morris Property Management, LLC and Morris, individually and collectively, as alleged in each count of this Complaint, individually and collectively demonstrates that Brenda Morris Property Management, LLC and Morris (1) lack good moral character; (2) do not bear a good reputation for honesty, integrity, and fair dealing; and/or (3) 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 are grounds for the MREC to refuse to issue a license under § 339.040.1, RSMo, providing cause to discipline the real estate licenses of Brenda Morris Property Management, LLC and Morris pursuant to § 339.100.2(16), RSMo.

Count XI

88. The MREC realleges and incorporates by reference paragraphs 1 through 92 as though fully set forth herein.

89. The conduct of Brenda Morris Property Management, LLC and Morris, 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 and/or gross incompetence, providing cause to discipline the real

estate licenses of Brenda Morris Property Management, LLC and Morris pursuant to § 339.100.2(19), RSMo.

WHEREFORE, Petitioner prays that the Administrative Hearing Commission conduct a hearing in this case pursuant to Chapter 621, RSMo, and thereafter issue findings of fact and conclusions of law holding that cause exists to discipline Respondents' real estate licenses under § 339.100.2(1),(2), (3), (7), (15), (16), and (19), RSMo, and the regulations promulgated thereunder.

Respectfully submitted,

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