

**BEFORE THE MISSOURI REAL ESTATE COMMISSION**

MISSOURI REAL ESTATE COMMISSION )  
 )  
 ) Petitioner, )  
 )  
 ) v. ) No. 13-2071 RE  
 )  
 )  
 ) VERONICA C. CHARLES )  
 )  
 ) Respondent. )

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

On or about December 12, 2014, the Administrative Hearing Commission entered its Decision in the case of *Missouri Real Estate Commission v. Veronica C. Charles*, No. 13-2071 RE. In that Decision, the Administrative Hearing Commission found that Respondent Veronica C. Charles's real estate salesperson license (license no. 2002028482) is subject to disciplinary action by the Missouri Real Estate Commission ("Commission") pursuant to § 339.100.2(19), RSMo.<sup>1</sup>

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 April 1, 2015, 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

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

the meeting. Doris Carlin participated through conference call. Further, each member of this Commission has read the Decision of the Administrative Hearing Commission. The Commission was represented by Assistant Attorney General Edwin Frownfelter. Respondent having received proper notice and opportunity to appear did appear in person with 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. Veronica C. Charles*, Case No. 13-2071 RE, issued December 12, 2014, in its entirety and takes official notice thereof.

3. The Commission set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondent in a proper and timely fashion. Respondent appeared in person with legal counsel at the hearing before the Commission.

4. This Commission licensed Respondent Veronica C. Charles as a real estate salesperson, license number 2002028482. Respondent's salesperson license was current at all times relevant to this proceeding.

## II.

### CONCLUSIONS OF LAW

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

6. The Commission expressly adopts and incorporates by reference the Decision issued by the Administrative Hearing Commission dated December 12, 2014, in *Missouri Real Estate Commission v. Veronica C. Charles*, Case No. 13-2071 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 December 12, 2014, Respondent's real estate salesperson license, number 2002028482, is subject to disciplinary action by the Commission pursuant to § 339.100.2(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 Decision of the Administrative Hearing Commission, it is the **ORDER** of the Commission that the real estate salesperson license of Veronica C. Charles (license no. 2002028482) is hereby placed on ONE (1) YEAR PROBATION. During Respondent's probation, Respondent shall be entitled to practice under her respective license provided that Respondent adheres to all of the terms stated herein. The period of probation shall constitute the "disciplinary period."

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

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

B. Respondent shall timely renew her real estate license(s), timely pay all fees required for license(s) renewal and shall comply with all other requirements necessary to maintain her license(s) in a current and active status. During the disciplinary period, Respondent shall not place her real estate license(s) on inactive status as would otherwise be allowed under 20 CSR 2250-4.040. Alternatively, without violation the terms and conditions of this Order, Respondent may surrender her real estate license(s) by submitting a letter to the Commission and complying with 20 CSR 2050-8.155. If Respondent applies for a real estate license(s) after surrender, Respondent shall be required to requalify as if an original applicant and the Commission will not be precluded from basing its decision, wholly or partially, on the findings of Fact, Conclusions of Law and Discipline set forth in this Order.

C. Respondent shall meet in person with the Commission or its representative any any such time or place as required by the Commission or its designee upon notification from the Commission or its designee. Said meetings will be at the Commission's discretion and may occur periodically during the probation period.

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

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

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

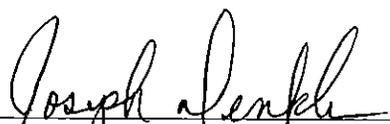
G. Broker Acknowledgement. If at any time during the disciplinary period Respondent wishes to transfer her license affiliation to a new broker/brokerage, he must submit a Broker Acknowledgment form signed by the new broker. This acknowledgment is in addition to any other required application, fee, and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

H. Upon the expiration and successful completion of the disciplinary period, Respondent's respective real estate salesperson license shall be fully restored if all other requirements of law have been satisfied; provided, however, that in the event the MREC determines that Respondent has violated any term or condition of this Order, the MREC may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Respondent's real salesperson license.

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

SO ORDERED, EFFECTIVE THIS 7<sup>th</sup> DAY OF April, 2015.

MISSOURI REAL ESTATE COMMISSION

  
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Joseph Denkler, Executive Director

BEFORE THE  
ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI

**FILED**

DEC 09 2013

ADMINISTRATIVE HEARING  
COMMISSION

Missouri Real Estate Commission )  
3605 Missouri Boulevard )  
P.O. Box 1339 )  
Jefferson City, MO 65102-1339, )  
(573) 751-2628 )

Petitioner, )

v. )

Case #: 13- 2071 RE

Veronica C. Charles )  
2111 NE Sparta Drive. )  
Blue Springs, Missouri 64029 )  
(816) 797-1116 )

Respondent. )

**COMPLAINT**

Petitioner, Missouri Real Estate Commission, by and through the Attorney General of the State of Missouri, and for its cause of action against Respondent, Veronica C. Charles, states the following:

1. The Missouri Real Estate Commission ("MREC") is an agency of the State of Missouri, created and established pursuant to Section 339.120,

RSMo,<sup>1</sup> for the purpose of executing and enforcing the provisions of Chapter 339, RSMo, Real Estate Agents, Brokers, Appraisers and Escrow Agents.

2. Respondent, Veronica C. Charles (Charles), is an adult individual whose registered address is 2111 NE Sparta Drive, Blue Springs, Missouri 64029, and who holds license no. 2002028482 as a Real Estate Salesperson, issued by the MREC, which is active and due for renewal on September 30, 2014.

3. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to Sections 621.045 and 339.100.2, RSMo.

### **Applicable Law**

4. Section 339.040.1, RSMo, provides:

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

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<sup>1</sup> All statutory citations are to the Revised Statutes of Missouri, Supp. 2012, unless otherwise noted.

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

5. Section 339.100.2, RSMo, provides in pertinent part:

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:

\* \* \*

(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;

\* \* \*

(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;

\* \* \*

(26) Engaging in, committing, or assisting any person in engaging in or committing mortgage fraud, as defined in section 443.930.

6. Section 443.930.1, RSMo, provides in part:

It is unlawful for a person, in connection with the application for or procurement of a loan secured by real estate to:

(1) Employ a device, scheme, or artifice to defraud . . .

### **Facts**

7. In November 2011, Charles was associated with the Toni Tygart Real Estate Group, Inc., ReMax Elite, in Lee's Summit, Missouri. Her supervising broker was Toni Tygart.

8. On or about November 22, 2011, Charles was requested by Jerry A. Reifeiss to prepare an acknowledgement in connection with a loan.

9. Jodi Sharp, an escrow agent for Stewart Title, is a notary public who often notarized documents for the Toni Tygart Real Estate Group.

10. Without consulting Sharp, Charles signed Sharp's name as notary public to the acknowledgement, cut a notary seal from another document, taped the cutout to the acknowledgement, and copied or otherwise reproduced the acknowledgement with the transferred notary seal.

11. Sharp did not know of or consent to Charles's conduct in affixing her signature and notary seal to a document Sharp had not seen.

12. The acknowledgement was subsequently executed before a different notary public.

### **Cause for Discipline**

13. By preparing a document which appeared to bear the signature and seal of a notary public who did not in fact sign and seal that document, Charles made a substantial misrepresentation in the course of her business, which is cause for discipline under the terms of Section 339.100.2(2), RSMo.

14. By preparing a document which appeared to bear the signature and seal of a notary public who did not in fact sign and seal that document, Charles committed an act demonstrating that she is not a person of good moral character, that she does not bear a good reputation for honesty, integrity, and fair dealing, and that she is not competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public, which would be cause for the MREC to deny her a license under the terms of Section 339.040.1, RSMo, and therefore which is cause for discipline under the terms of Section 339.100.2(16), RSMo.

15. By preparing a document which appeared to bear the signature and seal of a notary public who did not in fact sign and seal that document, Charles engaged in conduct which constitutes untrustworthy, improper or

fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence, which is cause for discipline under the terms of Section 339.100.2(19), RSMo.

16. By preparing a document which appeared to bear the signature and seal of a notary public who did not in fact sign and seal that document, in connection with an application for a loan secured by real property, Charles committed conduct constituting mortgage fraud as defined by Section 433.930, RSMo, which is cause for discipline under the terms of Section 339.100.2(26), 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 Veronica C. Charles's real estate salesperson license under the relevant provisions of Chapter 339, RSMo, and the regulations promulgated thereunder.

Respectfully submitted,

CHRISTOPHER A. KOSTER  
Attorney General



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Before the  
Administrative Hearing Commission  
State of Missouri



MISSOURI REAL ESTATE )  
COMMISSION, )

Petitioner, )

vs. )

VERONICA C. CHARLES, )

Respondent. )

No. 13-2071 RE

**DECISION**

Veronica Charles' real estate salesperson license is subject to discipline because she engaged in misconduct by falsifying an acknowledgment document.

**Procedure**

On December 9, 2013, the Missouri Real Estate Commission (MREC) filed a complaint seeking to discipline Charles. We served our notice of complaint/notice of hearing on Charles by certified mail on December 9, 2013, and the signed return receipt was filed December 16, 2013. We issued a default decision on January 23, 2014 because no answer or other responsive pleading was filed by that date. On January 30, 2014, Charles filed a motion to set aside the default decision, and we granted the motion and reopened the case on January 31, 2014.

On August 8, 2014, the parties filed a waiver of hearing, stipulation of facts and request for briefing schedule. The original exhibit in the case was received on August 14, 2014. The case became ready for decision on October 24, 2014, the date the last written argument was filed.

## Findings of Fact

1. Charles holds a license as a real estate salesperson that was current and active at all relevant times.<sup>1</sup>
2. In November of 2011, Charles was associated with the Toni Tygart Real Estate Group, Inc., ReMax Elite, in Lee's Summit, Missouri. Her supervising broker was Toni Tygart.
3. Jodi Sharp, an escrow agent for Stewart Title, is a notary public who often notarized documents for the Toni Tygart Real Estate Group.
4. On or about November 22, 2011, Charles prepared a document in the form of an acknowledgement for a loan modification on behalf of Jerry A. Reifeiss, her son.
5. In order to create the appearance that Sharp had notarized the signature on the acknowledgment, Charles cut a notary seal from another document, fixed it to the acknowledgment, and photocopied the acknowledgment with the transferred notary seal.
6. Reifeiss authorized Charles to prepare a document bearing his signature.
7. Sharp did not know of or consent to Charles' conduct in affixing her signature and notary seal to a document Sharp had not seen.
8. After preparing the document, Charles tore the original in half and placed it in a locked box with documents to be shredded. She left the photocopied version on the copy machine.
9. Charles did not provide the acknowledgment to Mr. Reifeiss, the lender, or anyone else.
10. The acknowledgement was subsequently executed before a different notary public.
11. The document with the transferred notary seal was found on the copier by another member of Tygart's staff, who placed it in Sharp's mailbox.

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<sup>1</sup> According to the stipulated facts, the license was due for renewal on September 30, 2014.

12. Upon reviewing the document in her mailbox, Sharp realized she had not notarized it and informed Tygart of this fact.

13. At Tygart's direction, the locked shredding box was opened and the original documents discovered in the box.

14. Tygart recognized the name of Reifeiss as Charles' son, and confronted Charles about the matter.

15. Tygart met with Charles, who acknowledged that she had prepared the document, that it was a mistake, and that she had never done such a thing before.

16. On November 11, 2011, Tygart reported the matter and returned Charles' license to the MREC, which led to the instant proceeding.

#### **Conclusions of Law**

We have jurisdiction to decide the MREC's complaint. Sections 339.100.2 and 621.045.<sup>2</sup> The MREC has the burden of proving, by a preponderance of the evidence, that Charles has committed an act for which the law allows discipline. *Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App. E.D. 1989); *Kerwin v. Mo. Dental Bd.*, 375 S.W.3d 219, 229-30 (Mo. App., W.D. 2012) (dental licensing board demonstrates "cause" to discipline by showing preponderance of evidence). A preponderance of the evidence is evidence showing, as a whole, that "the fact to be proved [is] more probable than not." *Schumer v. Lee*, 404 S.W.3d 443, 448 (Mo. App., W.D. 2013).

In its complaint, the MREC alleges there is cause to discipline Charles under § 339.100.2, which states:

The [MREC] may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any person or entity licensed under this chapter . . . for any one or any combination of the following acts:

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<sup>2</sup> Statutory citations are to the RSMo Supp. 2013 unless otherwise indicated.

(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;

\* \* \*

(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;

\* \* \*

(26) Engaging in, committing, or assisting any person in engaging in or committing mortgage fraud, as defined in section 443.930[.]

Section 339.040, referred to in section 339.100.2(16), sets forth the requirements for licensure and states in part:

1. Licenses shall be granted only to persons who 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.

In its proposed findings of fact and conclusions of law, the MREC withdrew its allegation that Charles was subject to discipline under § 339.100.2(26), and we do not discuss whether her conduct was cause for discipline under that provision in this decision.

Subdivision (2) – Substantial Misrepresentation

“Misrepresentation is generally defined as a falsehood or untruth made with the intent of deceit rather than inadvertent mistake.” *Hernandez v. State Bd. of Regis’n for the Healing Arts*, 936 S.W.2d 894, 899 n. 3 (Mo. App. W.D. 1997), quoted in *Kerwin*, 375 S.W.3d at 299. The MREC argues that by simply making the document in the manner described, Charles made a substantial misrepresentation in the conduct of her business. We agree that the document created by Charles was untrue and made with the intent to deceive. But based upon the stipulated facts, she did not create the document in the conduct of her business.

Charles modified the document in question for the benefit of her son, who was seeking a loan modification. The defining activities of a real estate broker or salesperson are found in § 339.010.1. They do not include assisting a person in obtaining a loan modification. Moreover, there is no evidence that Reifeiss was a client of Toni Tygart Real Estate Group, Inc., or that the loan he sought to modify was a mortgage loan or was related to a real estate transaction. Thus, we do not conclude that Charles created the document in the course of her business as a real estate salesperson. Consequently, we do not find that Charles’ conduct in making the false document amounted to a substantial misrepresentation or the making of any false promises or that she suppressed, concealed, or omitted material facts *in the conduct of her business*.

The intended misrepresentation was made in the context of a personal matter where a mother was trying to do a favor for her son. Section 339.100.2(2) exists for the protection of the public from MREC licensees who engage in willful misrepresentations and untrustworthy conduct in generating and handling the business of doing real estate transactions for compensation. *See* § 339.010.2 (a real estate sales person is one who performs any activities set forth in § 339.010.1 for compensation or valuable consideration). That is not what happened when Charles created the false acknowledgment for her son.

We find no cause for discipline under 339.100.2(2).

Subdivision (19) – Any Other Conduct

The MREC alleges that Charles is subject to discipline under § 339.100.2(19) for “any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence[.]” The adjective “other” means “not the same : DIFFERENT, any [other] man would have done better[.]” WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 1598 (unabr. 1986).

Therefore, subdivision (19) refers to conduct different from that specified in the remaining subdivisions of the statute. We seldom find cause for discipline under this statute because the conduct at issue usually falls within the ambit of other subdivisions of § 339.100.2. That is not the case here. Therefore, we examine Charles’ conduct under the terms of § 339.100.2(19).

Because we have already determined that Charles did not create the false document in the course of her business as a real estate salesperson, we do not analyze whether her conduct constitutes an “untrustworthy, improper, or fraudulent” business dealing. We do, however, agree with the MREC that what Charles did was misconduct. Misconduct is the intentional commission of a wrongful act. *Grace v. Missouri Gaming Comm’n*, 51 S.W.3d 891, 900 (Mo. App., W.D. 2001). Misconduct means “the willful doing of an act with a wrongful intention[;] intentional wrongdoing.” *Missouri Bd. for Arch’ts, Prof’l Eng’rs & Land Surv’rs v. Duncan*, No. AR-84-0239 (Mo. Admin. Hearing Comm’n Nov. 15, 1985) at 125, *aff’d*, 744 S.W.2d 524 (Mo. App., E.D. 1988).

Charles argues that her creation of the false document was not misconduct because the document was never presented to or relied on by anyone, and she took steps to destroy the original documents from which she had created the fabricated document by placing the originals in a locked shredder box. She argues that she made a “hasty decision” to help her son get his

loan paperwork completed, but quickly retreated from her actions when she realized they would violate the law. These arguments are unconvincing. Charles' creation of a false document was, itself, an intentional and wrongful act. The fact that the document was discovered before she furnished it to anyone reveals nothing about subsequent state of mind; she could have simply not yet had the chance to furnish the document as she intended. Her placement of the originals in the locked shredder box more likely evidenced the desire to conceal her conduct rather than her decision not to carry through with the scheme.

In this case, we have no direct evidence of Charles' intent. The parties elected to submit stipulations rather than go to a hearing where Charles could have testified. We must, therefore, infer her intent from the surrounding circumstances. *Duncan*, 744 S.W.2d at 533.

When we consider those circumstances, we find it more likely than not that Charles created the false document with the intent to use it. Her conduct, therefore, meets the definition of misconduct – a wrongful act done with a wrongful intention.

We find cause for discipline of Charles' license under § 339.100.2(19).

Subdivision (16) – Commission of Acts Which are Grounds for Refusal to License

The MREC argues that Charles is subject to discipline under § 339.100.2(16) for committing acts that would otherwise be grounds for it to refuse her a license. The MREC argues that because of her creation of the document with the false seal, Charles cannot now demonstrate that she is of good moral character and has a reputation for honesty, integrity, and fair dealing.

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). It is the “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 Charles’ reputation.

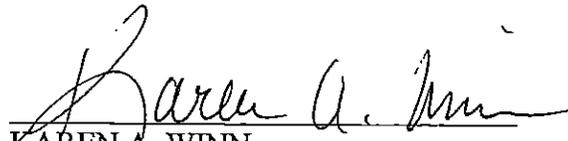
Good moral character is honesty, fairness, and respect for the law and the rights of others. *Hernandez*, 936 S.W.2d at 899 n.1. By creating a false document, Charles demonstrated a lack of honesty and respect for the law. But one such incident is insufficient as a basis for determining that a person lacks good moral character. The MREC made no argument regarding Charles’ competence, but we likewise do not find that a single incident is a sufficient basis for a finding of incompetence. *See Albanna v. State Bd. of Reg’n for the Healing Arts*, 293 S.W.3d 423, 435 (Mo. banc 2009).

We find no cause for discipline under § 339.100.2(16).

**Summary**

Charles is subject to discipline under § 339.100.2(19).

SO ORDERED on December 12, 2014.

  
KAREN A. WINN  
Commissioner