BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 18-0757 RE
	)	
	)	
BENJAMIN RAY EDWARDS	)	
	)	
Respondent.	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER

On or about April 19, 2019, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Benjamin Ray Edwards,* No. 18-0757 RE. In that Default Decision, the Administrative Hearing Commission found that Respondent Benjamin Ray Edwards' real estate Salesperson license (license no. 2014037586) is subject to disciplinary action by the Missouri Real Estate Commission ("Commission") pursuant to § 339.100.2, (15), (16), and (19) RSMo.[1]

The Commission has received and reviewed the record of the proceedings before the Administrative Hearing Commission including the properly pled complaint and the Default Decision of the Administrative Hearing Commission. The record of the Administrative Hearing Commission is incorporated herein by reference in its entirety.

Pursuant to notice and §§ 621.110 and 339.100.3, RSMo, the Commission held a hearing on December 4, 2019, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action against Respondent's license. All of the members of the Commission were present throughout

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

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

Based upon the foregoing the Commission hereby states:

I.

FINDINGS OF FACT

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

2. The Commission hereby adopts and incorporates by reference the properly pled Complaint and the Default Decision of the Administrative Hearing Commission in *Missouri Real Estate Commission v. Benjamin Ray Edwards,* Case No. 18-0757 RE, issued April 19, 2019, in its entirety and takes official notice thereof.

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

4. This Commission licensed Respondent Benjamin Ray Edwards as a real estate Salesperson, license number 2014037586. Respondent's Salesperson license was not current at

all times relevant to this proceeding. On September 30, 2018, Respondent's Salesperson license expired.

II.

CONCLUSIONS OF LAW

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

6. The Commission expressly adopts and incorporates by reference the properly pled complaint and Default Decision issued by the Administrative Hearing Commission dated April 19, 2019, in *Missouri Real Estate Commission v. Benjamin Ray Edwards,* Case No. 18-0757 RE, takes official notice thereof, and hereby enters its conclusions of law consistent therewith.

7. As a result of the foregoing, and in accordance with the Administrative Hearing Commission's Default Decision dated April 19, 2019, Respondent's real estate Salesperson license, number 2014037586, is subject to disciplinary action by the Commission pursuant to § 339.100.2 (15), (16), and (19) RSMo.

8. The Commission has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

Having fully considered all the evidence before the Commission, and giving full weight to the Default Decision of the Administrative Hearing Commission, it is the **ORDER** of the Commission that the real estate Salesperson license of Benjamin Ray Edwards (license no. 2014037586) is hereby **REVOKED**. All evidence of Respondent's licensure shall be immediately returned to the Commission within 30 days of this Order, if Respondent has not already done so.

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

SO ORDERED, EFFECTIVE THIS 10TH **DAY OF** DECEMBER**, 2019.**

MISSOURI REAL ESTATE COMMISSION

Terry W. Moore, Executive Director

Before the
Administrative Hearing Commission
State of Missouri

MISSOURI REAL ESTATE COMMISSION	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 18-0757
	)	
BENJAMIN RAY EDWARDS	)	
	)	
Respondent,	)	
	)	
	)	

DEFAULT DECISION

On September 6, 2018, Petitioner filed a properly pled complaint seeking to discipline Respondent. Respondent was served with a copy of the complaint and our notice of complaint/notice of hearing by publication on March 1, 2019.

More than 45 days have elapsed since Respondent was served. Respondent has not filed an answer or otherwise responded to the complaint.

In accordance with § 621.100.2, RSMo 2016, we enter a default decision against Respondent establishing that Petitioner is entitled to the relief requested in the complaint. This default decision shall become final and may not be set aside unless a motion is filed with this Commission within thirty days of the date of this order establishing good cause for not responding to the complaint and stating facts constituting a meritorious defense.

SO ORDERED on April 19, 2019.

RENEE T. SLUSHER
Commissioner

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

September 06, 2018

ADMINISTRATIVE
HEARING COMMISSION

MISSOURI REAL ESTATE COMMISSION 3605 Missouri Boulevard P.O. Box 1339 Jefferson City, MO 65102, Petitioner, v. BENJAMIN RAY EDWARDS 1136 Washington Ave. Unit 811 St. Louis, MO 63101 Telephone: (314) 475-4611 Respondent.	)))))))))))))))	Case No.:

COMPLAINT

Petitioner, the Missouri Real Estate Commission ("MREC"), by and through the Attorney General of the State of Missouri, for its cause of action against Respondent, states the following:

1. The MREC is an agency of the State of Missouri, created and established pursuant to Section 339.120, RSMo,[1] for the purpose of executing and enforcing the provisions of Chapter 339, RSMo, Real Estate Agents, Brokers, Appraisers, and Escrow Agents.

[1] All statutory citations are to the 2016 Revised Statutes of Missouri, as amended, unless otherwise noted.

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2. Respondent, Benjamin Ray Edwards ("Edwards"), holds a real estate salesperson license, no. 2014037586. The MREC issued Edwards's salesperson license on October 21, 2014, and expires on September 30, 2018.

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

4. On or about October 11, 2017, Edwards submitted a transfer application form with a $50.00 check to the MREC requesting his license be transferred from Big Love, Inc. to NRT Missouri Inc. On or about October 23, 2017, Edwards's check was returned unpaid to the MREC by the bank with "Not Sufficient Funds" as the reason the bank returned the check.

5. On or about November 7, 2017, the MREC sent Edwards a letter requesting payment of the original fee, and a replacement fee, $75.00 total, by cashier's check within 30 days of the date of the letter. The MREC received no response to its November 7, 2017, 2017 letter.

6. On or about December 12, 2017, the MREC sent Edwards a second request for the replacement fee and bad check fee by certified mail. The letter requested the fee within 30 days of the date of the letter threatening prosecution and collections through the Cole County Prosecuting Attorney's office, and informed Edwards that the matter would be placed on the MREC's agenda to consider disciplinary action. On or about December 14,

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2017, the United States Postal Service attempted delivery at Licensee's address on file with the MREC. No one was available to accept delivery and the United States Postal Service left notice for Edwards of the letter and attempted delivery. The Commission also sent the December 12, 2017 letter by regular mail and did not receive the regular mail back. The Commission received no response to its December 12, 2017 letter.

7. On or about January 22, 2018, the MREC referred Edwards to the Cole County Prosecuting Attorney's Office for collection on the bad check.

8. The MREC received no response from Edwards, no replacement fee, and no bad check fee in response to its November and December, 2017 correspondence. None of the correspondence was returned to the MREC as "undeliverable."

9. The MREC is entitled to subject Edwards to additional costs, substantial penalties, or other actions for his attempted payment of fees with a check that is returned due to the account being closed pursuant to § 324.031.2, RSMo, which states:

> 2. The division and its component agencies shall permit any licensee to submit payment for fees established by rule in the form of personal check, money order, or cashier's check. All checks or money orders shall be made payable to the appropriate board. **Any check or financial instrument which is returned to the division or one of its agencies due to insufficient funds, a closed account, or for other circumstances in which the check or financial instrument**

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> **is not honored may subject an individual to additional costs, substantial penalties, or other actions by the division or one of its agencies.** In such cases involving renewal of licenses, the renewal license may be withheld, and if issued, is not valid until the appropriate fee and any additional costs are collected. The division may require the payment of collection costs or other expenses. The affected board may establish penalty fees by rule and may suspend or revoke a license if such behavior is repetitive or the licensee fails to pay required penalty fees.

(Emphasis added.)

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

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

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

11. Edwards's conduct, set forth above, shows that Edwards failed to respond within 30 days to MREC communications sent to him on November 7 and December 12, 2017. Thus, cause exists to discipline Edwards's license pursuant to § 339.100.2(15), RSMo, because Edwards has failed to respond in writing to the MREC's written requests or inquiries, in violation of 20 CSR 2250-8.170(1), which provides in relevant part:

> Failure of a licensee to respond in writing, within thirty (30) days from the date of the commission's written request or inquiry, mailed to the licensee's address currently registered with the commission, will be sufficient grounds for taking disciplinary action against that licensee.

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

> 1. Licenses shall be granted only to persons who present, and corporations, . . .whose officers, . . . present, satisfactory proof to the commission that they:
>
> . . .

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

13. Edwards's failure to respond to MREC communications, as set forth above, and his failure to reimburse the MREC for the amount of a returned check he sent as a renewal fee, is evidence that Edwards is not competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public. Therefore, there would be grounds under § 339.040.1, RSMo, for the MREC to deny a license to Edwards, and this provides cause for discipline under § 339.100.2(16), RSMo.

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

WHEREFORE, Petitioner prays this Administrative Hearing Commission to conduct a hearing in this case pursuant to sections 621.015 to 621.205, RSMo, and thereafter issue its findings of fact and conclusions of law that the Petitioner may discipline Respondent Benjamin Ray Edwards's real estate salesperson's license under Chapter 339, RSMo, and the regulations promulgated thereunder.

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Respectfully submitted,

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