

**BEFORE THE MISSOURI REAL ESTATE COMMISSION**

MISSOURI REAL ESTATE COMMISSION	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 17-1057-RE
	)	
TIMOTHY J. ESTEPP	)	
	)	
Respondent.	)	

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

On or about December 10, 2018, the Administrative Hearing Commission entered its Decision (“Decision”) in the case of *Missouri Real Estate Commission v. Timothy J. Estep*, No. 17-1057 RE. In that Decision, the Administrative Hearing Commission found that Respondent Timothy J. Estep’s Broker Officer license (license no. 2011040656) is subject to disciplinary action by the Missouri Real Estate Commission (“Commission”) pursuant to § 339.100.2 (2) and (16), 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.

As a preliminary matter, on or about July 25, 2019, Respondent filed a Motion to Dismiss the disciplinary hearing for failure to timely notify the Respondent of the hearing date. On July 26, 2019, Petitioner filed its Response to Respondent’s Motion to Dismiss. Prior to the initiation of the hearing, but on the record, the parties were provided the opportunity for additional

---

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

argument on their respective motions. The Commission denied the Petitioner's Motion for three reasons: First, the Commission lacked jurisdiction to dismiss the hearing. The hearing is the second part of a single bifurcated hearing pursuant to sections 339.100.2 and .3, 621.045, and 621.110, RSMo. Second, the statute requiring notice to the respondent within 30 days of receipt of the certified record from the Administrative Hearing Commission contains no consequence for failure to comply and is therefore pursuant to Missouri case law, directory and not mandatory. Third, on or about April 29, 2019, Respondent requested a continuance of the hearing originally set for June 5, 2019. This would constitute waiver of the 30-day requirement if it were found to be mandatory. Counsel for Respondent entered a continuing objection to the hearing going forward which was noted on the record.

Pursuant to notice and §§ 621.110 and 339.100.3, RSMo, the Commission held a hearing on August 7, 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 the meeting, except Sherry Lynn Farrell. Further, each member of this Commission has read the 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 appear in person with legal counsel, Michael Mueth. 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 entity 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. Timothy J. Estep*, Case No. 17-1057 RE, issued December 10, 2018, in its entirety and takes official notice thereof.

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

4. This Commission licensed Respondent Timothy J. Estep as a Broker Officer, license number 2011040656. Respondent's 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 10, 2018, in *Missouri Real Estate Commission v. Timothy J. Estep*, Case No. 17-1057 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 10, 2018, Respondent's Broker Officer license, number 2011040656, is subject to disciplinary action by the Commission pursuant to § 339.100.2(2) 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 Broker Officer license of Timothy J. Estepp (license no. 2011040656) is hereby **placed on TWO (2) YEARS' PROBATION**. During Respondent's probation, Respondent shall be entitled to practice under his 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 is 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.

B. 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.

C. Respondent shall timely renew his real estate license, timely pay all fees required for license renewal and shall comply with all requirements necessary to maintain his license(s).

D. Respondent shall be prohibited from obtaining any additional real estate license(s) from the Commission without the prior written approval of the Commission. Respondent shall request permission to obtain additional license(s) in writing.

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

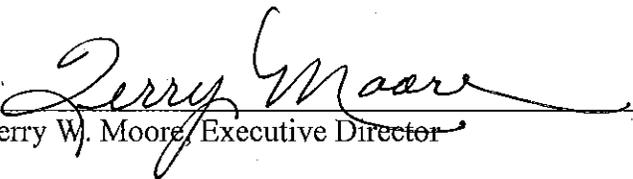
H. Respondent shall comply with all relevant provisions of Chapter 339, RSMo, as amended; all rules and regulations duly promulgated under all local, state and federal laws. "State" as used herein includes the State of Missouri and all other states and territories of the United States. Any cause to discipline Respondent's license as a Broker Officer 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, Respondent's respective real estate Broker Associate license shall be fully restored if all 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 estate Broker Officer 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 19<sup>TH</sup> DAY OF AUGUST, 2019.

MISSOURI REAL ESTATE COMMISSION

  
Terry W. Moore, Executive Director

Before the  
Administrative Hearing Commission  
State of Missouri



MISSOURI REAL ESTATE COMMISSION, )  
)  
Petitioner, )  
)  
v. )  
)  
TIMOTHY J. ESTEPP, )  
)  
Respondent. )

No. 17-1057

**DECISION**

Timothy J. Estep is subject to discipline because he made omissions of material fact in the conduct of his business.

**Procedure**

On June 23, 2017, the Missouri Real Estate Commission (MREC) filed a complaint seeking to discipline Estep's real estate broker's license. Before July 6, 2017,<sup>1</sup> Estep was served with a copy of the complaint and our notice of complaint/notice of hearing by certified mail. With our leave, Estep filed an answer on August 11, 2017. Also with our leave, Estep filed an amended answer on September 25, 2017.

On March 9, 2018, we held a hearing. Assistant Attorney General Ross Keeling represented MREC. Attorney Michael G. Mueth, from the Law Offices of Kevin J. Dolley,

---

<sup>1</sup> The certified mail return receipt does not contain a date for delivery, but was filed with this Commission on July 6, 2017.

represented Estep. This case became ready for decision on August 31, 2018, when the last written argument was filed.

### Findings of Fact

1. At all relevant times, Estep was licensed by the MREC as a real estate broker.
2. At all relevant times, Estep owned and solely managed Time, LLC (Time), a limited liability corporation he used to purchase and sell properties.
3. On October 31, 2013, Time purchased property at 1447 Jeffco Blvd. in Arnold, Missouri (Property) for \$20,000. At the time of the purchase, the Property needed significant repairs. Estep purchased the Property intending to resell it for a profit to a party interested in rehabbing it. Estep had no intention of rehabbing the property himself.
4. On November 1, 2013, Estep listed the Property for sale on the "MARIS Multiple Listing Service." The listing contained the following remark concerning the property:

PRICE REDUCED!!! Here is an opportunity to purchase a commercial building with great visibility. Great chance for the small business owner to buy an inexpensive property and build some sweat equity. Make no mistake this building needs some work but it will be well worth it. Don't wait too long to take a look.<sup>[2]</sup>

5. On January 7, 2014, the City of Arnold sent Time a letter that warned:

Due to a complaint, an on site visit to your property in September 27, 2013, revealed numerous Nuisance Code violations. Attached letters sent to [the previous owner] denotes the violations and requiring immediate repairs. The Jefferson County Assessor's office indicates that you are the new owner of property and are responsible for making repairs and securing a safety inspection according to city ordinance. The city is sure you would want to maintain your property in a well kept manner: therefore, receipt of this letter will serve notice that you have fourteen (14) days to contact this office with a plan for addressing the violations noted in attachments.<sup>[3]</sup>

---

<sup>2</sup> Pet'r Ex. 1.

<sup>3</sup> Pet'r Ex. 5.

6. On January 11, 2014, Estepp responded to the City of Arnold stating that his “intentions were to purchase the property and get it in the hands of a small business owner who wants to make the improvements.” Estepp further stated that he “recently reduced the price in order to speed this process up.”<sup>4</sup>

7. On January 23, 2014, the City of Arnold sent Time a second letter that warned:

**The City of Arnold Ordinance 7.12, Chapter V, Article 1, Sec 5-11 requires the owner must secure a Certificate of Compliance for a safety Inspection [sic] ... some very serious conditions exist on the inside of the structure that were not inspected by the city due to no entry. There is a possible mold problems [sic]; ceiling and wall damage, as well as standing water in bathroom tub that also must be abated.**

The exterior violations were noted in the nuisance code letter on January 7, 2014 giving you fourteen (14) days to abate violations; as of this date have not been abated and will be re-inspected on February 7, 2014 for compliance. Failure to abate violations will result in the city seeking assistance from Municipal Court.<sup>[5]</sup>

8. Scott Jerome is an electrician who also invests in real property through his limited liability corporations: Sunshine Investments, LLC I; Sunshine Investments, LLC II (Sunshine Investments), Sunshine Investments, LLC III; and Sunshine Investments, LLC IV.

9. At some point prior to March 1, 2014, Jerome saw the listing for the Property on the MARIS Multiple Listing Services and initiated negotiations to purchase the property. Jerome offered Estepp \$10,000 for the Property.

10. On March 1, 2014, Estepp sent Jerome a counter-offer of \$19,500, which Jerome rejected. After further negotiations, Jerome and Estepp agreed to a sale price of \$12,500.

11. During negotiations for the Property, Jerome visited the Property and observed its condition. There were no warnings posted on the building to indicate the City of Arnold’s

---

<sup>4</sup> Resp. Ex. A.

<sup>5</sup> Pet’r Ex. 6.

concerns. Also prior to executing the sale contract, Estepp told Jerome that “the City of Arnold wanted repairs made to the property.” Jerome told Estepp he was a “seasoned investor” and “knew people in the area ... [who] were going to check with whoever they knew with the City[.]”<sup>6</sup>

12. On March 9, 2014, Estepp and Jerome executed a sale contract for the Property. The contract provided that the closing would occur on March 28, 2014. Additionally, the contract provided that “No Seller’s Disclosure Statement will be provided by Seller,” and that the Property was “to be purchased ‘AS IS.’”

13. On March 18, 2014, the City of Arnold sent Time another letter, stating:

Notice is hereby given that as of March 18, 2014 conditions exist on [the Property] which constitute a nuisance and a violation of Chapter 5, Article III of the Code of Ordinances of the City of Arnold, in that the building and/or structure on said property is a DANGEROUS BUILDING, as defined in Section 5-31, (1) (5), (9), (10), (15).

To date evidence supports that the owners of the premise have not abated any of the violations, thereby leaving the City no recourse but to proceed with hearings for demolition of the structures, cleanup of the property, and junk from the property according to the Chapter, Article III, Sections 5-33, 5-34, 5-34.1, 5-35, and 5-36.

Receipt of this letter serves notice that you have **fifteen (15) days** to abate these violations (demolition of a structure requires a building permit).

1. Building exterior is in bad state of repair and need of weather protection.
2. Roof in disrepair and disintegrating.
3. Sidewalk detaching, trip hazard.
4. Window boarded up.
5. Front porch paint peeling “suspect lead paint.”
6. Interior wall in need of repair and repainting.
7. All mold and mildew must be cleaned.

This declaration shall serve as official notice of these conditions and that it is unlawful to maintain or permit the existence of any

---

<sup>6</sup> Tr. at 63.

dangerous building in the City; and shall be unlawful of the owner, occupant or person in custody of any dangerous building to permit the same to remain in a dangerous condition, or to occupy such building or permit it to be occupied while it is or remains in a dangerous condition.

Any person who fails to proceed to comply with this notice shall be guilty of a misdemeanor. In addition failure to abate the conditions will result in the convening of the Building Appeals Board for order of demolition.[<sup>7</sup>]

14. On March 19, 2014, Estep e-mailed Jerome to confirm previously discussed plans between them to move the closing date up from March 28 to March 25, 2014.

15. On March 25, 2014, Estep and Jerome closed the sale of the Property from Time to Sunshine Investments.

16. Estep never disclosed the letters from the City of Arnold or their specific contents save a verbal representation that the City of Arnold “wanted repairs made to the property.”

17. On April 10, 2014, the City of Arnold sent Sunshine Investments a letter that notified Jerome of the violations at the Property. This letter warned that failure to abate noted violations within fifteen days would result in enforcement proceedings and a misdemeanor violation punishable by fine not exceeding \$500 or imprisonment for not more than 90 days.

18. Over the course of Sunshine Investments’ ownership of the Property, Jerome has incurred considerable expense for legal services and to obtain variances and pay fees to the City of Arnold.

19. At the time of the hearing, Jerome had listed the Property, and two adjacent lots, for sale with a listing price of \$379,000.

---

<sup>7</sup> Pet'r Ex. 7.

### Conclusions of Law

We have jurisdiction over MREC's complaint.<sup>8</sup> The MREC has the burden to prove by a preponderance of the evidence that Estep's license is subject to discipline.<sup>9</sup>

MREC alleges in its complaint that there is cause to discipline Estep's license 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 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[.]

#### Count I – Omission of Material Fact – Subdivision (2)

MREC alleges that Estep omitted a material fact by failing to disclose to Jerome that the City of Arnold was preparing to demolish the Property as stated in the March 18, 2014 letter. To omit is "to leave out or leave unmentioned[.]"<sup>10</sup> A "material fact" is "one which the agent should

<sup>8</sup> Sections 339.100.2 and 621.045. Statutory references, unless otherwise noted, are to RSMo. 2016.

<sup>9</sup> *Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App. E.D. 1989).

<sup>10</sup> MERIAM-WEBSTER'S COLLEGIATE DICTIONARY 865 (11<sup>th</sup> ed. 2004).

realize would be likely to affect the judgment of the principal in giving his consent to the agent to enter into the particular transaction on the specified terms.”<sup>11</sup>

After executing a sale contract with Jerome, but prior to closing, Estep received a letter from the City of Arnold that warned it would begin proceedings to demolish the Property if certain violations were not abated within fifteen days. Although Estep previously disclosed that the City of Arnold “wanted repairs made to the [P]roperty,” he omitted the fact that the City of Arnold began preparations to demolish the Property and the limited time period Jerome would have to abate code violations. Obviously, these are facts that Estep should have realized would affect Jerome’s judgment in completing his purchase.

Estep argues that his nondescript disclosure that the City of Arnold wanted repairs, his forthcoming representations about the physical state of the Property prior to the March 18, 2014 letter, and Jerome’s awareness that he was purchasing a property in need of work, excuse him from discipline. The fact that Estep had been forthcoming with all material facts prior to receiving the March 18, 2014 letter does not excuse his failure to omit the material facts contained therein. Although Estep notified Jerome that the City of Arnold had requested repairs and Jerome represented that he would consult contacts within the City, those disclosures and representations occurred prior to March 9, 2014, and well before the City of Arnold made its warning that it would commence preparations to demolish the building.

Estep also argues that MREC did not plead in its complaint the facts that it relies on as cause to discipline him. Specifically, Estep claims that MREC did not allege that he omitted the contents of the March 18, 2014 letter from the City of Arnold. The Court of Appeals has described the required degree of specificity for the agency’s factual allegations:

The specificity of charges could be at essentially three levels. The most general is simply a statement that the accused has violated one or more of the statutory grounds for discipline without further

---

<sup>11</sup> *Pilgram v. Missouri Real Estate Comm’n*, 835 S.W.2d 545, 548 (Mo. App. W.D. 1992).

elaboration, i.e., he has been grossly negligent. Such an allegation is insufficient to allow preparation of a viable defense. The second level involves a greater specificity in setting forth the course of conduct deemed to establish the statutory ground for discipline. The third level involves a degree of specificity setting forth each specific individual act or omission comprising the course of conduct. Due process requires no more than compliance with the second level.<sup>[12]</sup>

We cannot find discipline for uncharged conduct.<sup>13</sup> We can find cause for discipline only on the law cited in the complaint.<sup>14</sup>

MREC's complaint contains a single error in paragraph 16 that refers to a "March 15 Letter."<sup>15</sup> It is clear from context that MREC is referring to the March 18, 2014 letter. The rest of the complaint correctly references the March 18, 2014 letter and contains no other references to "March 15." Accordingly, the complaint provides adequate specificity to set forth the course of conduct for which MREC seeks cause for discipline. There is cause for discipline under § 339.100.2(2).

Count II – Grounds to Refuse License  
Under § 339.040 – Subdivision (16)

MREC argues Estep's license is subject to discipline because grounds exist to refuse it under § 339.040.1. Section 339.040.1 requires proof of good moral character. Good moral character is honesty, fairness, and respect for the law and the rights of others.<sup>16</sup> "Reputation" means "the estimation in which one is generally held: the character commonly imputed to one as distinct from real or inherent character[.]"<sup>17</sup> "The requirements of good moral character, good reputation, and competence are closely related, and the same proof may satisfy all of them."<sup>18</sup>

---

<sup>12</sup> *Duncan v. Missouri Bd. for Arch'ts, Prof'l Eng'rs & Land Surv'rs*, 744 S.W.2d 524, 539 (Mo. App. E.D. 1988) (citations omitted).

<sup>13</sup> *Dental Bd. v. Cohen*, 867 S.W.2d 295, 297 (Mo. App. W.D. 1993).

<sup>14</sup> *Sander v. Missouri Real Estate Comm'n*, 710 S.W.2d 896, 901 (Mo. App. E.D. 1986).

<sup>15</sup> Complaint at 6.

<sup>16</sup> *Hernandez v. State Bd. of Regis'n for the Healing Arts*, 936 S.W.2d 894, 899 n.1 (Mo. App. W.D. 1997).

<sup>17</sup> WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1929 (unabr. 1986).

<sup>18</sup> *Ringo v. Mo. Real Estate Comm'n*, No. 01-1833 RE at 5 (Mo. Admin. Hrg. Comm'n June 3, 2002).

MREC alleges that Estep is not a person of good moral character and lacks a good reputation for honesty, integrity, and fair dealing. In support of its argument, MREC relies on Estep's omission of material facts contained in the March 18, 2014 letter. We agree that Estep did not act fairly in his dealing with Jerome. There is cause for discipline under § 339.100.2(16).

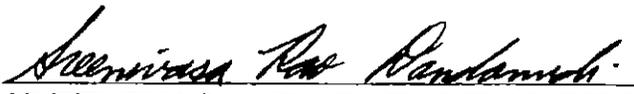
Count XI – Other Conduct – Subdivision (19)

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[.]”<sup>19</sup> 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).

**Summary**

Estep is subject to discipline under § 339.100.2(2) and (16).

SO ORDERED on December 10, 2018.

  
SREENIVASA RAO DANDAMUDI  
Commissioner

---

<sup>19</sup> WEBSTER'S at 1598 (unabr. 1986).

BEFORE THE  
ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI

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

Petitioner, )

v. )

TIMOTHY J. ESTEPP )  
One West Associates Inc )  
12225 Clayton Road )  
Saint Louis, MO 63131 )

Respondent. )

Case No.

<b>FILED</b> June 23, 2017 ADMINISTRATIVE HEARING COMMISSION
---

**COMPLAINT**

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

1. The 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

---

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

and enforcing the provisions of §§ 339.010 through 339.205, and §§ 330.710 through 339.855 RSMo, Real Estate Agents, Brokers, Appraisers, and Escrow Agents.

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

3. Timothy J. Estep is licensed by the MREC as a real estate broker officer, license no. 2011040656. At all relevant times herein, Estep's license was active and current.

4. In the fall of 2013, Estep purchased a property at 1447 Jeffco Boulevard, Arnold, Missouri ("Jeffco Property") from G.E. Pelster ("Pelster.")

5. Prior to the sale, Pelster had received a letter from the City of Arnold requiring Pelster to take steps to abate a number of regulatory violations concerning the Jeffco Property ("October 16 Letter"). Pelster took no steps to abate the violations, but instead sold the property to Estep.

6. On January 7, 2014, Estep received a letter from the City of Arnold ("January 7 Letter") which stated:

Due to a complaint, an onsite visit to your property in September 27, 2013, revealed numerous Nuisance Code violations. Attached letters sent to Mr. Pelster, previous owner, denotes the violations and requiring immediate repairs. The Jefferson County Assessor's office indicates that you are the new owner of property and are responsible for making repairs and securing a safety inspection according to city ordinance. The city is sure you would

want to maintain your property in a well kept manner: therefore, receipt of this letter will serve notice that you have fourteen (\*14) days to contact this office with a plan for addressing the violations noted in attachments.

7. By letter dated January 11, 2014, Estep responded to the January 7 letter ("January 11 Letter") in which he stated the Jeffco Property was purchased without knowledge of the complaints and it was his business's intention to simply sell the property to another, who would make the repairs desired by the city.

8. On January 23, 2014, the City of Arnold sent Estep another letter, citing additional problems, and further stated that Estep had failed to abate any of the problems noted in the January 7 Letter. The letter also warned Estep that failure to abate the violations would result in legal action via Municipal Court.

9. At the start of March 2014, Estep entered into negotiations with Scott Jerome ("Jerome") for the sale of the property. Jerome was represented in the transaction by Gregory Theodore ("Theodore"). By mid-March, the parties agreed on a price for the property and scheduled the closing date as March 28, 2014.

10. On March 18, 2014, the City of Arnold sent Estep another letter ("March 18 Letter") stating that the condition of the Property constituted a

nuisance, and that the building located on the Property violated the ordinances of the City of Arnold in that it was a "Dangerous Building," as defined in its Code of Ordinances. The March 18 Letter also put Estepp on notice that if the code violations were not abated within 15 days of receipt of the letter the City of Arnold would proceed with hearings to obtain an order for demolition of the structures and cleanup of the property.

11. Around the time of the March 18 Letter, Estepp moved the closing date up from March 28 to March 25, 2014. On March 25, the transaction was completed between Estepp and Jerome with the property sold "As is." Estepp never told Jerome that the City of Arnold had warned him the Jeffco Property was slated for potential demolition due to the property's violations that had not been abated.

12. Only after the transaction was complete, did Jerome learn that the City planned to demolish the building due to its categorization as a Dangerous Building, which had been noted in the March 18 Letter to Estepp.

13. Section 339.040.1, RSMo, 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.

14. Section 339.100.2, RSMo, 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:

.....

(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[.]

15. Section 339.730.3, RSMo, states in pertinent part:

3. A licensee acting as a seller's or landlord's agent owes no duty or obligation to a customer, except that a licensee shall disclose to any customer all adverse material facts actually known or that should have been known by the licensee.

16. Based on the above, Estep made a substantial omission of material facts in the conduct of his business when he failed to tell Jerome that the City of Arnold was preparing to demolish the Jeffco Property as stated in the March 15 Letter. Thus, cause exists to discipline Estep's broker officer license pursuant to §§ 339.100.2(2), and 339.730.3, RSMo.

17. Based on the above, Estep's failure to tell Jerome that the City of Arnold was preparing to demolish the Jeffco Property constitutes an act that would be grounds for the MREC to refuse him a license under §339.040, RSMo, because that act is counter to the requirement of good moral character and a good reputation for honesty, integrity, and fair dealing. Thus, cause exists to discipline Estep's broker officer license pursuant to §339.100.2(16), RSMo.

18. Based on the above, Estep's failure to notify Jerome about the City of Arnold's plans to demolish the Jeffco Property, constitutes

untrustworthy, improper or fraudulent business dealings, demonstrates bad faith, and misconduct. Thus, cause exists to discipline Estep's broker officer license pursuant to §339.100.2(19), RSMo.

WHEREFORE, Petitioner prays this Administrative Hearing Commission to conduct a hearing in this case pursuant to Chapter 621, RSMo, and thereafter issue its findings of fact and conclusions of law that the Petitioner may discipline Respondent Timothy J. Estep's real estate broker license under Chapter 339, RSMo, and the regulations promulgated thereunder.

JOSHUA D. HAWLEY  
Attorney General

/s/ Ross Keeling

---

Ross Keeling  
Assistant Attorney General  
Missouri Bar No. 65361

Supreme Court Building  
207 West High Street  
P.O. Box 899  
Jefferson City, MO 65102  
Telephone: 573-751-1337  
Telefax: 573-751-5660  
Email: ross.keeling@ago.mo.gov  
Attorneys for the MREC