

BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION)
)
) Petitioner,)
)
) v.) No. 14-0256RE
)
)
BRENNAN MICHAEL GIESLER)
)
) Respondent.)

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

On or about June 11, 2014, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Brennan Michael Giesler*, No. 14-0256RE. In that Default Decision, the Administrative Hearing Commission found that Respondent Brennan Michael Giesler’s real estate broker associate license (license no. 2005036586) is subject to disciplinary action by the Missouri Real Estate Commission (“Commission”) pursuant to § 339.100.2(18), 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 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

¹ 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 Default 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 without legal counsel. After being present and considering all of the evidence presented during the hearing, the Commission issues the following Findings of Facts, Conclusions of Law and Order.

Based upon the foregoing the Commission hereby states:

I.

FINDINGS OF FACT

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

2. The Commission hereby adopts and incorporates by reference the properly pled Complaint and the Default Decision of the Administrative Hearing Commission in *Missouri Real Estate Commission v. Brennan Michael Giesler*, Case No. 14-0256RE, issued June 11, 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 without through legal counsel at the hearing before the Commission

4. This Commission licensed Respondent Brennan Michael Giesler as a real estate broker associate, license number 2005036586. Respondent's broker associate license was not current at all times relevant to this proceeding. On June 30, 2014 Respondent's broker associate

license expired due to failure to renew. Respondent's broker associate license was renewed on August 29, 2014.

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 June 11, 2014, in *Missouri Real Estate Commission v. Brennan Michael Giesler*, Case No. 14-0256RE, 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 June 11, 2014, Respondent's real estate broker associate license, number 2005036586, is subject to disciplinary action by the Commission pursuant to § 339.100.2, (18), RSMo.

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

III.

ORDER

The Findings of Fact, Conclusions of Law and Disciplinary Order that was issued on December 11, 2014, is hereby vacated.

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 broker associate license of Brennan Michael Giesler (license no.

2005036586) 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 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 his real estate license(s), timely pay all fees required for license(s) renewal and shall comply with all other requirements necessary to maintain his license(s) in a current and active status. During the disciplinary period, Respondent shall not place his 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 his 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 form 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 licenses as a broker associate under § 339.100.2, RSMo, as amended, that accrues during the disciplinary period shall constitute a violation of this Order.

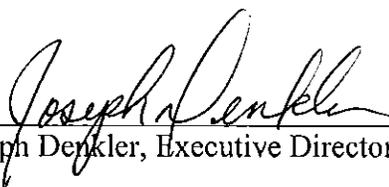
G. Broker Acknowledgement. If at any time during the disciplinary period Respondent wishes to transfer his license affiliation to a new broker/brokerage, he must submit a Broker Acknowledgment form signed by the new broker. This acknowledgment is in addition to any other required application, fee, and documentation necessary to transfer his 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 broker associate 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 broker associate 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 17th DAY OF April, 2015.

MISSOURI REAL ESTATE COMMISSION



Joseph Denkler, Executive Director

Before the
Administrative Hearing Commission
State of Missouri



MISSOURI REAL ESTATE COMMISSION,)
)
Petitioner,)
)
vs.)
)
BRENNAN MICHAEL GIESLER,)
)
Respondent.)

No. 14-0256 RE

DEFAULT DECISION

On February 24, 2014, 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 personal service on April 22, 2014.

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

In accordance with § 621.100.2, RSMo (Supp. 2013), 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 June 11, 2014.

A handwritten signature in black ink, appearing to read 'Mary E. Nelson', written over a horizontal line.

MARY E. NELSON
Commissioner

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

FEB 24 2014

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

Petitioner,)

v.)

Case #: 14-0256 RE

Brennan Michael Giesler)
9010 Lawn Avenue)
St. Louis, Missouri 63144)
(314) 496-3281)

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, Brennan Michael Giesler, 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, for the purpose of executing and enforcing the provisions of Chapter 339, RSMo, Real Estate Agents, Brokers, Appraisers and Escrow Agents.

2. Respondent, Brennan Michael Giesler, is an adult individual whose registered address is 9010 Lawn Avenue, St. Louis, Missouri 63144, and who holds a Missouri license as Real Estate Broker Associate, no. 2005036586, which is active and which expires June 30, 2014.

3. Giesler is the designated broker for Fleur-de-lys Realty, LLC, a limited liability company located at 3117 Hampton Avenue, St. Louis, Missouri 63139, which holds Real Estate Association license no. 2012042070, which is active and which expires June 30, 2014.

4. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to Sections 621.045 and 339.100.2, RSMo.¹

Applicable Law

5. Section 339.100.2, RSMo, states 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:

* * *

(18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for

¹ All statutory references are to the Revised Statutes of Missouri, Supp. 2013, unless otherwise indicated.

any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed

6. In 2010, Section 195.202, RSMo, stated as follows in pertinent part:

1. Except as authorized by sections 195.005 to 195.425, it is unlawful for any person to possess or have under his control a controlled substance.
2. Any person who violates this section with respect to any controlled substance except thirty-five grams or less of marijuana is guilty of a class C felony.

Facts

7. On September 14, 2010, a criminal complaint was filed in the Circuit Court for the 11th Circuit, St. Charles County, charging Giesler with Possession of a Controlled Substance other than 35 grams or less of marijuana, Section 195.202, RSMo.

8. The charges were based on Giesler's arrest on June 21, 2010, at which time he was found during a traffic stop to be in possession of Amphetamine, a controlled substance.

9. On July 18, 2011, Giesler entered a plea of guilty to one count of Possession of a Controlled Substance.

10. On July 18, 2011, the Court imposed Suspended Imposition of Sentence on Giesler, placing him on probation for five (5) years, and requiring him to participate in REACT (Required Education Assessment and Community Treatment); be subject to random drug testing; submit to hair folic testing every 90 days at his expense; and to pay all lab fees pertaining to court orders.

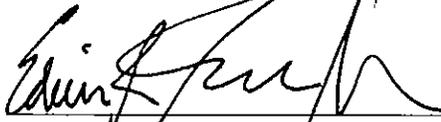
11. Giesler reported his conviction when he renewed his real estate broker associate license on December 13, 2012.

12. Giesler's plea of guilty to the offense of Possession of a Controlled Substance provides cause for the MREC to discipline his license as a Real Estate Broker-Associate under the terms of Section 339.100.2(18).

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 Brennan Michael Giesler's real estate broker associate license under the relevant provisions of Chapter 339, RSMo, and the regulations promulgated thereunder.

Respectfully submitted,

CHRISTOPHER A. KOSTER
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