

BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION)
)
) Petitioner,)
)
) v.) No. 16-3548RE
)
)
) JENNIFER LEE HART)
)
) Respondent.)

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

On or about January 18, 2017, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Jennifer Lee Hart*, No. 16-3548RE. In that Default Decision, the Administrative Hearing Commission found that Respondent Jennifer Lee Hart’s real estate salesperson license (license no. 2008005895) 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 April 5, 2017, 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. Charles Davis participated via telephone conference. Further, each member of this Commission has 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 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. Jennifer Lee Hart*, Case No. 16-3548RE, issued January 18, 2017, 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 Jennifer Lee Hart as a real estate salesperson, license number 2008005895. Respondent's salesperson license was not current at

all times relevant to this proceeding. On September 30, 2016, 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 January 18, 2017, in *Missouri Real Estate Commission v. Jennifer Lee Hart*, Case No. 16-3548RE, 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 January 18, 2017, Respondent's real estate salesperson license, number 2008005895, 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.

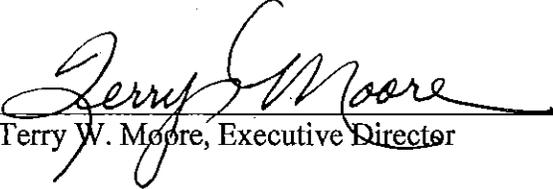
ORDER

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 Jennifer Lee Hart (license no. 2008005895) is hereby **REVOKED**. All evidence of Respondent's licensure shall be immediately returned to the Commission within 30 days of this Order.

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 7TH DAY OF APRIL, 2017.

MISSOURI REAL ESTATE COMMISSION


Terry W. Moore, Executive Director

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

SEP 27 2016

ADMINISTRATIVE HEARING
COMMISSION

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

Petitioner,)

v.)

JENNIFER L. HART,)
4514 Flora Avenue)
St Louis, MO 63031)
Phone: 314-387-7633,)

Respondent.)

No. 16-3548

COMPLAINT

Petitioner, the Missouri Real Estate Commission ("MREC"), by and through the undersigned counsel, and for its cause of action against Respondent, Jennifer L. Hart states:

Allegations Common to All Counts

1. The MREC is an agency of the State of Missouri created and existing pursuant to § 339.120, RSMo,¹ for the purpose of executing and enforcing the

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

provisions of §§ 339.010 to 339.180 and §§ 339.710 to 339.860, RSMo (as amended), relating to real estate salespersons and brokers.

2. Jennifer L. Hart ("Hart") holds a real estate salesperson license, No. 2008005895, originally issued on February 4, 2008, and which expired on September 30, 2014, and remained expired until it was renewed on June 17, 2015. Hart's real estate salesperson license was subsequently returned by her broker to the MREC on December 21, 2015, and is set to expire on September 30, 2016.

3. Despite her license not being actively affiliated with a broker, Hart continued to act as a real estate salesperson in performing activities that require a license from the MREC under Chapter 339.

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

5. Section 339.100.2, RSMo, provides:

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621, RSMo, 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:

.....

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to

violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860;

.....

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;

.....

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

6. Section 339.010, RSMo, states in pertinent part:

1. A "real estate broker" is any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, does, or attempts to do, any or all of the following:

(1) Sells, exchanges, purchases, rents, or leases real estate;

(2) Offers to sell, exchange, purchase, rent or lease real estate;

(3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;

(4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;

(5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;

(6) Advertises or holds himself or herself out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;

(7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;

(8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;

(9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby the real estate broker undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;

(10) Performs any of the foregoing acts on behalf of the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

2. A "real estate salesperson" is any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, domestic or foreign who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860* shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

7. Section 339.020, RSMo, states:

1. It shall be unlawful for any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, foreign or domestic, to act as a real estate broker, real estate broker-salesperson, or real estate salesperson, or to advertise or assume to act as such without a license first procured from the commission.

8. 20 CSR 2250-4.050(2) and (4), state in part:

(2) a broker-salesperson or salesperson license shall be issued only to a person who is associated with a licensed broker. The license of each broker-salesperson or salesperson shall be mailed to the broker. A broker-salesperson or salesperson cannot be licensed with more than one (1) broker at the same period of time.

.....

(4) An original licensee or a licensee changing license status/type shall not be deemed to be entitled to engage in any activity for which a license is required until the new license is received by the broker or until written notification is received from the commission that the application is being processed. When a broker-salesperson or salesperson transfers from one broker to another without changing license type, the license shall be deemed transferred at the time the properly completed application is mailed by certified, registered, or overnight delivery, if all materials required to transfer are mailed under one (1) cover. The new broker is responsible for seeing that the application is complete and that the application for transfer is mailed by certified, registered, or overnight delivery to ensure proof of delivery. If the application is deemed incomplete, the transfer will not be effective until the new license is received by the broker or until written notification is received from the commission that the application is being processed.

9. 20 CSR 2250-8.110, states in part:

(1) A licensee shall not acquire an interest in, sell, buy, exchange, rent or lease any real estate, directly or indirectly, without first making the licensee's status as a licensee known in writing to the other parties in the transaction.

10. Section 339.200, RSMo, states in part:

1. It shall be unlawful for any person not holding the required license from the commission to perform any act for which a license is required by sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission may cause a complaint to be filed with the administrative hearing commission, as provided in chapter 621, against any unlicensed person who:

(1) Engages in or offers to perform any act for which a license is required by sections 339.010 to 339.180 and sections 339.710 to 339.860;

.....

2. If the commission files a complaint with the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds provided in subsection 1 of this section for action are met, the commission may, either singularly or in combination with other provisions of this chapter, impose a civil penalty against the person named in the complaint in an amount not to exceed the limit authorized by section 339.205.

Allegations Common to All Counts

11. The MREC realleges and incorporates by reference paragraphs 1 through 10 as though fully set forth herein.

12. In September, 2014, Barb Summers & Associates Real Estate, a real estate brokerage, merged with Clarity Street Realty. Barb Summers & Associates Real Estate submitted applications to the MREC to transfer the affiliated real estate licenses to Clarity Street Realty. Barb Summers & Associates Real Estate is a fictitious name owned by Basta Properties, LLC of Richmond Heights, Missouri.

13. The MREC received Hart's Licensee's application for transfer on September 25, 2014, and returned it to Hart for correction because her new broker's address was not correct. Additionally because her real estate salesperson license was set to expire on September 30, 2014, the MREC would not transfer the license without Hart renewing the license.

14. On October 16, 2014, the MREC received Hart's corrected application for transfer and application for renewal, which was rejected by the MREC because Hart had failed to complete the twelve hour continuing education requirement for renewal of her license.

15. Hart's application to transfer her real estate salesperson license was incomplete (in that the new broker's address was not correct), therefore the transfer of that license was not deemed transferred when her application was mailed to the MREC because it was not properly completed, as required by 20 CSR 2250-4.050(4).

16. As a result of Hart's failure to transfer her license to her new brokerage, Hart was not associated with a real estate broker beginning September 25th 2014. A real estate salesperson "shall not be deemed to be entitled to engage in any activity for which a license is required until the new license is received by the broker or until written notification is received from the commission that the application is being processed." pursuant to 20 CSR 2250-4.050(4), therefore, Hart was unauthorized to engage in real estate transactions as a salesperson for lack of appropriate licensure pursuant to § 339.020, RSMo, from September 25th, 2014 until she renewed her license expired on September 30, 2014.

17. Hart's real estate license expired on September 30, 2014, and she was therefore unauthorized to engage in real estate transactions as a salesperson for lack of appropriate licensure pursuant to § 339.020, RSMo, from September 30, 2014 until she renewed her license on June 18, 2014.

Count I
7422 Devonshire Avenue

18. The MREC realleges and incorporates by reference paragraphs 1 through 17 as though fully set forth herein.

19. On or about September 25, 2014, Hart entered into an agreement to sell the property at 7422 Devonshire Avenue, Webster Groves, Missouri, naming herself as the seller's agent, and indicating the seller's brokerage firm to be

Clarity Street Realty, a real estate brokerage in the St. Louis area. Records show the purchaser to be Neighborhood Development, LLC, which, on information and belief, is a real estate development company owned by Hart. Records show Hart signing on documentation of the sale in her own name as well.

20. The above named transaction occurred during a period when Hart had submitted an application to transfer her real estate salesperson's license from her previous brokerage to Clarity Street Realty, however that application was returned to her because it was insufficient.

21. As a result of Hart's application for transfer of her license being returned, Hart was not associated with a real estate broker at the time of the Devonshire Avenue transaction, and was therefore unauthorized to engage in the Devonshire Avenue transaction for lack of appropriate licensure pursuant to § 339.020, RSMo.

22. Based on Hart's violation of § 339.020, RSMo, cause exists to discipline Hart's real estate salesperson's license pursuant to § 339.100.2(15), RSMo.

Count II
7568 Jerome Avenue

23. The MREC realleges and incorporates by reference paragraphs 1 through 22 as though fully set forth herein.

24. On October 15, 2014, during a period when her real estate salesperson license was expired, Hart published a listing for property that she owned at 7568 Jerome Avenue, Maplewood, Missouri, with the Multi Listing Service (MLS) on her own account, naming herself as the listing agent and naming Clarity Street Realty as the associated brokerage. That listing remained posted on the MLS for approximately ten hours before it was removed.

25. Also on October 15, 2014, Hart entered into an agreement to sell the Jerome Avenue property, naming herself as the listing agent and the seller's agent on transaction documents.

26. Hart's listing the Jerome Street property, and acting as the listing agent and seller's agent in the sale of that property, was in violation of § 339.020, RSMo, and therefore Hart's real estate license is subject to discipline pursuant to § 339.100.2(15), RSMo.

27. Additionally, Hart failed to indicate on the Jerome Avenue property documentation that she was a real estate licensee acting as a principal party in the transaction, in violation of 20 CSR 2250-8.110(1), thus Hart's real estate license is subject to discipline pursuant to § 339.199.2(15).

Count III
5423 Lisette Avenue

28. The MREC realleges and incorporates by reference paragraphs 1 through 27 as though fully set forth herein.

29. On October 27, 2014, during a time when Hart's real estate salesperson's license was expired, Hart engaged in an agreement for the sale of the property located at 5423 Lisette Avenue, St. Louis, Missouri, listing herself as the buyer's agent in the transaction, in violation of § 339.020, RSMo.

30. Based on Hart's violation of § 339.020, RSMo, her real estate salesperson's license is subject to discipline pursuant to § 339.100.2(15).

Count IV
Civil Penalty

31. The MREC realleges and incorporates by reference paragraphs 1 through 30 as though fully set forth herein.

32. Hart's conduct, as set forth in the foregoing counts I – IV constitutes performance of acts for which a license is required by §§ 339.010 to 339.180, RSMo, in violation of § 339.200.1(1) for which a civil penalty may be imposed against the respondent pursuant to § 339.200.2, RSMo.

Count V
§ 339.100.2(16)

33. The MREC realleges and incorporates by reference paragraphs 1 through 32 as though fully set forth herein.

34. Section 339.040, RSMo, provides, in pertinent part:

1. Licenses shall be granted only to persons who present, and corporations, associations, or partnerships whose officers, associates, or partners present, satisfactory proof to the commission that they:

(1) Are persons of good moral character; 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.

35. Hart's conduct, as alleged in each count of this Complaint, individually and collectively demonstrates that Hart (1) lacks good moral character; and (2) 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 are grounds for the MREC to refuse to issue a license under § 339.040.1, RSMo, providing cause to discipline Hart's real estate salesperson's license pursuant to § 339.100.2(16), RSMo.

Count VI
§ 339.100.2(19)

36. The MREC realleges and incorporates by reference paragraphs 1 through 35 as though fully set forth herein.

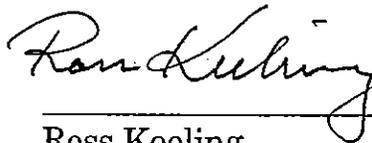
37. Hart's conduct, as alleged in each count of this Complaint, individually and collectively, constitutes untrustworthy, improper, and/or fraudulent business dealings and/or demonstrates bad faith and/or gross

incompetence, providing cause to discipline Hart's real estate salesperson's license pursuant to § 339.100.2(19), RSMo.

WHEREFORE, Petitioner respectfully requests this Commission to conduct a hearing in this cause pursuant to Chapter 621, RSMo, and thereafter to issue its findings of fact and conclusions of law determining that Petitioner may take disciplinary action against Hart's real estate salesperson's license for violations of Chapter 339, RSMo, and the regulations promulgated thereunder, that Petitioner may impose a civil penalty against Hart under Section 339.200, RSMo, and for such other and further relief this Commission deems just and proper.

Respectfully submitted,

CHRIS KOSTER
Attorney General



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