

**BEFORE THE
MISSOURI REAL ESTATE COMMISSION
STATE OF MISSOURI**

MISSOURI REAL ESTATE COMMISSION,)	
)	
Petitioner,)	
)	
v.)	Case No. 12-14-23 PV
)	
TERRY M. HEITMAN)	
)	
Respondent.)	

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

Pursuant to notice the Missouri Real Estate Commission (“Commission”) held a hearing on October 7, 2015, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining whether Respondent had violated the probationary terms of a prior Commission settlement agreement and if so, whether additional discipline of Respondent’s license was warranted. All of the members of the Commission were present throughout the meeting. The Commission was represented by Assistant Attorney General Ross Brown. Respondent was properly and timely notified of the hearing. Respondent Terry M. Heitman appeared in person without legal counsel. After being present and considering all of the evidence presented during the hearing, the Commission issues these following Findings of Facts, Conclusions of Law and Disciplinary Order.

I.

FINDINGS OF FACT

1. The Missouri Real Estate Commission is an agency of the state of Missouri created and established pursuant to § 339.120, RSMo,¹ for the purpose of carrying out and enforcing the provisions of §§ 339.010 to 339.205 and 339.710 to 339.855, RSMo, and the regulations promulgated thereunder, relating to real estate salespersons and brokers.

2. Terry M. Heitman holds a salesperson license from the Commission, license no. 2014005358. Respondent's salesperson license was current at all times relevant to this proceeding.

3. On February 20, 2014, the Commission issued its Order of the Missouri Real Estate Commission regarding issuance of a probated real estate salesperson license to Terry M. Heitman and placing said license on five (5) years probation. The Order required Terry M. Heitman to comply with all relevant provisions of Chapter 339 RSMo, as amended; all rules and regulations of the MREC; and all local, state, and federal laws.

4. Terry M. Heitman forging the signature and initials of Gregorita Kadar is a violation of Paragraph 33H of Section III of the Order which provides cause to further discipline Terry M. Heitman's license under § 324.042, RSMo.

5. Terry M. Heitman's failure to adhere to the terms of his probation by failing to respond to correspondence sent to him by the Commission dated April 7, 2015 and May 26, 2015 within the 30 day timeframe is a violation of Paragraph 33H of Section III of the Order which provides cause to further discipline Terry M. Heitman's license under § 324.042, RSMo.

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

10. As a result of the foregoing, a Probation Violation Complaint was filed with the Missouri Real Estate Commission alleging that grounds existed for additional disciplinary action against Heitman's Missouri real estate license, pursuant to § 324.042, RSMo.

11. The Commission set this matter for hearing and served notice of this disciplinary hearing upon Respondent in a proper and timely fashion.

12. On October 7, 2015, pursuant to notice and § 621.110, RSMo, this Commission held a hearing at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining whether the Respondent had violated any terms of the Order, and if so, whether any additional discipline would be imposed against Respondent's license. Respondent Terry M. Heitman was present but was not represented by legal counsel. Petitioner was represented by Ross Brown, Assistant Attorney General.

13. All the members of the Commission were present throughout the disciplinary hearing.

II.

CONCLUSIONS OF LAW

14. Terry M. Heitman's failure to adhere to the terms of his probation by forging the signature and initials of Gregorita Kadar on August 11, 2014 in violation of Paragraph 33H of Section III of the Order are violations of the terms of the Order which provides cause to further discipline Terry M. Heitman's license under § 324.042, RSMo.

15. Terry M. Heitman's failure to adhere to the terms of his probation by failing to respond to correspondence sent to him by the Commission dated April 7, 2015 and May 26, 2015 within the 30 day timeframe given to him in violation of Paragraph 33H of Section III of the Order are violations of the terms of the Order which provides cause to further discipline Terry M. Heitman's license under § 324.042, RSMo.

16. Pursuant to § 324.042, RSMo, the Commission has authority to impose additional discipline against Terry M. Heitman, for violating any disciplinary terms previously imposed or agreed to pursuant to the Settlement Agreement with the licensee.

17. Section 324.042, RSMo, provides:

Any board, commission or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission or committee may impose as additional discipline, any discipline it would be authorized to impose in an initial disciplinary hearing.

18. Pursuant to Section 324.042, RSMo, the Commission has jurisdiction to hold additional hearings and impose discipline if it finds that a licensee has violated any disciplinary terms previously imposed by the Commission.

19. Section 339.100.3, RSMo, provides the Commission may discipline a real estate license after an initial disciplinary hearing by revoking, probating or suspending said license.

20. The Commission finds Respondent Terry M. Heitman has violated the terms and conditions of the Settlement Agreement that became effective February 20, 2014 as a result of the conduct identified in the Findings of Fact set forth above.

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

III.

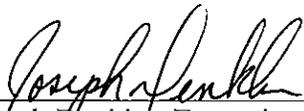
ORDER

Therefore, having fully considered all the evidence before the Commission, it is the ORDER of this Commission that:

22. The real estate license of Respondent Terry M. Heitman, license number 2014005358, is hereby **REVOKED**. All evidence of Respondent's licensure shall be returned to the Commission within 30 days of this Order.

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

So Ordered this 20th day of October 2015.



Joseph Denkler, Executive Director
Missouri Real Estate Commission

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MREC

BEFORE THE
MISSOURI REAL ESTATE COMMISSION

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

Petitioner,)

v.)

No. 12-14-236

TERRY M. HEITMAN)
3440 S. Delaware Ave, Apt 122)
Springfield, MO 65804)
417-887-6664)

Respondent.)

PROBATION VIOLATION COMPLAINT

Petitioner, Missouri Real Estate Commission ("MREC"), by and through its attorney, the Attorney General of Missouri, states its cause of action against Terry M. Heitman ("Heitman):

1. The MREC is an agency of the State of Missouri created and existing pursuant to § 339.120, RSMo, for the purpose of executing and enforcing the provisions of §§ 339.010 to 339.180 and §§ 339.710 to 339.855, RSMo (as amended), relating to real estate salespersons and brokers.

2. Pursuant to Section 324.042, RSMo, Supp. 2013, the MREC has jurisdiction to hold additional hearings and impose discipline if it

finds that a licensee has violated any disciplinary terms previously imposed by the MREC.

3. Terry M. Heitman holds a real estate salesperson license, license no. 2014005358. Heitman was granted via an order from the MREC a probated license on February 20, 2014, with a five year probationary period. At all relevant times, the terms of Heitman's probation was in effect for the actions described below.

4. On or about August 11, 2014, Heitman was involved in a real estate transaction involving Gregorita Kadar ("Kadar"), the seller of the property, which required Kadar's signature and initials on multiple pages of the forms required for the sale of her property.

5. At the end of the business day, it became apparent that Kadar had failed to provide every signature and initial required for the completion of the documents. In order to receive the commission from the sale that day, Heitman forged Kadar's signature and initials multiple times and submitted the documentation presenting those signatures and initials as Kadar's.

6. In early 2015, a complaint was filed with the MREC concerning Heitman's role in approaching a property owner who had already contracted with another salesperson. On April 7, 2015, the MREC sent a notice of the complaint to Heitman's registered business

address 1334 E Republic Road, Springfield, Missouri, 65804, asking Heitman to respond. Heitman did not respond to the April 7, 2015 letter within 30 days.

7. On May 26, 2015, the MREC sent a second letter to both Heitman's registered business and home address, 3440 S Delaware Ave, #122, Springfield, MO, 65804, reminding him to respond to the April letter. On May 29, over fifty days after the first letter was sent to Heitman, he finally responded to the complaint.

8. Regulation 20 CSR 2250-8.170 General, states concerning responding to a request from the MREC:

(1) 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.

9. Section 570.090, RSMo, states with concern to forgery:

1. A person commits the crime of forgery if, with the purpose to defraud, the person:

(1) Makes, completes, alters or authenticates any writing so that it purports to have been made by another or at another time or place or in a numbered sequence other than was in fact the case or with different terms or by authority of one who did not give such authority[...]

10. Paragraph 33(H) of the order which granted Heitman his probated license states concerning compliance with state law and regulation:

H. Heitman shall comply with all relevant provisions of Chapter 339, RSMo, as amended; all rules and regulations of the MREC; and all local, state, and federal laws. "State" as used herein refers to the State of Missouri and all other states and territories of the United States.

11. 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;

.....

(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*;

.....

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

12. Based on the conduct described above, Heitman forging the name and initials of a seller on transaction documents, Heitman made a substantial misrepresentation in a transaction in violation of §339.100.2(2), RSMo. Additionally, this conduct constituted untrustworthy, improper and fraudulent business dealings, as well misconduct in violation of §399.100.2(19), RSMo. The violation of both and the violation of 20 CSR 2250-8.170 represent violations of a relevant provision of Chapter 339 and a violation of Paragraph 33(H) of the Order creating cause for discipline under Paragraph 34 of the order and Section 324.042, RSMo, 2013.

13. Based on Heitman's violation of Section 570.090, RSMo, Forgery, by purposefully defrauding his employer by forging the name of a party to a contract to receive his commission early, Heitman violated a law of the State of Missouri, and thus is in violation of Paragraph 33(H). Therefore, cause exists for additional discipline pursuant to Paragraph 34 and Section 324.042, RSMo, 2013.

14. Pursuant to Paragraph 34 of the order, the MREC has jurisdiction to hold a hearing and determine additional discipline of Heitman' license:

34. Upon the expiration and successful completion of the disciplinary period, Heitman's real estate salesperson license shall be fully restored if all other requirements of the law have been satisfied; provided, however, that in the event the MREC determines that Heitman 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 Heitman's real estate salesperson license.

WHEREFORE, Petitioner requests the Commission to hold a hearing to determine that a violation occurred and may impose disciplinary action under § 324.042, RSMo, 2013, for the violations noted above, and for other such relief as the Commission deems appropriate.

Respectfully submitted,

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Attorney General



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