

Administrative Hearing Commission. The Commission was represented by Assistant Attorney General Craig Jacobs. 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. Clista Wynea Kingfisher*, Case No. 16-2289RE, issued July 20, 2016, 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 legal counsel at the hearing before the Commission and offered testimony regarding the case.

4. This Commission licensed Respondent Clista Wynea Kingfisher as a real estate broker, license number 1999079042. Respondent's broker license was not current at all times relevant to this proceeding. On December 13, 2014 Respondent's broker license was suspended

by operation of law pursuant to Section 324.010, RSMo. Respondent's broker license was reinstated on July 29, 2016

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 July 20, 2016, in *Missouri Real Estate Commission v. Clista Wynea Kingfisher*, Case No. 16-2289RE, 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 July 20, 2016, Respondent's real estate broker license, number 1999079042, 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 broker license of Clista Wynea Kingfisher (license no. 1999079042) is hereby placed on TWO (2) YEARS PROBATION. During Respondent's probation, Respondent shall be entitled to practice under her 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 her real estate license(s), timely pay all fees required for license(s) renewal and shall comply with all other requirements necessary to maintain her license(s) in a current and active status. During the disciplinary period, Respondent shall not place her 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 her 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 forth 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 under § 339.100.2, RSMo, as amended, that accrues during the disciplinary period shall constitute a violation of this Order.

G. Respondent shall report to the MREC each occurrence of Respondent being finally adjudicated and found guilty, or entering a plea of guilty or nolo contendere, in a state or federal criminal prosecution, to felony or misdemeanor offenses, within ten business days of each such occurrence.

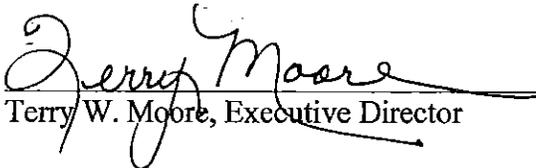
H. Broker Acknowledgement. If at any time during the disciplinary period Respondent wishes to transfer her license affiliation to a new broker/brokerage, she must submit a Broker Acknowledgment form signed by the new broker. This acknowledgment is in addition to any other required application, fee, and documentation necessary to transfer her license. Respondent must obtain the Broker Acknowledgement form from the Commission.

I. Upon the expiration and successful completion of the disciplinary period, Respondent's respective real estate broker 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 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 3rd DAY OF February, 2017.

MISSOURI REAL ESTATE COMMISSION


Terry W. Moore, Executive Director

Before the
Administrative Hearing Commission
State of Missouri



MISSOURI REAL ESTATE COMMISSION,)
Petitioner,)
v.)
CLISTA WYNEA KINGFISHER)
Respondent,)

No. 16-2289

DEFAULT DECISION

On February 2, 2016, 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 certified mail on June 16, 2016.

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 July 20, 2016.


KAREN A. WINN
Commissioner

**BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI**

FILED

FEB 02 2016

ADMINISTRATIVE HEARING
COMMISSION

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

Petitioner,)

v.)

**CLISTA WYNEA KINGFISHER,)
AKA CLISTA WYNEA NEWMAN)
100 Hillcrest Drive)
Seneca, Missouri 64865)
Telephone: (417) 776-1007)**

Respondent.)

Case #: _____

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, 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

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

and enforcing the provisions of Chapter 339, RSMo, Real Estate Agents, Brokers, Appraisers, and Escrow Agents.

2. Respondent, Clista Wynea Kingfisher, aka Clista Wynea Newman ("Kingfisher"), holds a license as a real estate broker, license no. 1999079042, which expires on June 30, 2016, but was suspended on December 13, 2014.

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

4. Kingfisher received a notice dated September 17, 2014 from the Department of Revenue ("Department") that she has outstanding balances due on her 2008 and 2009 Missouri Individual Income Tax returns. The notice informed Kingfisher that her professional license would be suspended pursuant to § 324.010 RSMo, on or about December 6, 2014, if she did not make satisfactory arrangements with the Department for payment of the balance due, pay the amount in protest, or inform the Department that she will contest the amount due.

5. On December 13, 2014, Kingfisher's real estate license was suspended.

6. On or about December 16, 2014, the MREC sent a letter to Kingfisher at 100 Hillcrest Drive, Seneca, Missouri 64865, her address

registered with the MREC, informing her that her license has been suspended by operation of law, and requesting that she return the license and an Affidavit of Closing to the MREC within ten (10) days.

7. By email dated February 6, 2015, the MREC resent a copy of the December 16th letter to Kingfisher as a second request. This email was sent to an address provided by Kingfisher to the MREC.

8. By email dated March 19, 2015, the MREC resent a copy of the December 16th letter to Kingfisher as a third request. This email was sent to an address provided by Kingfisher to the MREC.

9. Kingfisher has failed to respond to the December 16th letter or the subsequent emails and has not surrendered her license or Affidavit of Closing as requested by the MREC since her suspension began on December 13, 2014.

10. Section 324.010, RSMo, states in part:

All governmental entities issuing professional licenses, certificates, registrations, or permits pursuant to . . . chapters 324 to 346, RSMo, shall provide the director of revenue with the name and Social Security number of each applicant for licensure with or licensee of such entities within one month of the date the application is filed or at least one month prior to the anticipated renewal of a licensee's license. If such licensee is delinquent on any state taxes or has failed to file state income tax returns in the last three years, the director shall then

send notice to each such entity and licensee. In the case of such delinquency or failure to file, the licensee's license shall be suspended within ninety days after notice of such delinquency or failure to file, unless the director of revenue verifies that such delinquency or failure has been remedied or arrangements have been made to achieve such remedy. . . .

11. 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:

. . .

(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[.]

12. Cause exists to discipline Kingfisher's licenses pursuant to § 339.100.2(15), RSMo, because Kingfisher 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.

13. Cause exists to discipline Kingfisher's licenses pursuant to § 339.100.2(15), RSMo, because Kingfisher has failed to surrender her license and provide the Affidavit of Closing, in violation of 20 CSR 2250-8.155(2)(A)3 and 9, regarding Closing a Real Estate Brokerage Firm, which provides in relevant part:

(2) Revocation/Suspension.

(A) Individual Broker or Corporation, Partnership, or Association. Upon the revocation or suspension of an individual broker, corporation, partnership, or association, the individual broker or designated broker shall—

...

3. Notify all licensees associated with the brokerage of the revocation/suspension and return all licenses held by the broker to the commission[.]

...

9. Notify the commission in writing on a form prescribed by the commission of the location where the records will be stored and that all requirements of 20 CSR 2250-8.155(2) have been met.

14. Section 339.040, RSMo, establishes the criteria that must be established to hold a real estate broker's 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:

.....

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

15. Kingfisher's failure to respond and failure to return the license is evidence that Kingfisher 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 Kingfisher, and thus providing cause for discipline under § 339.100.2(16), RSMo.

16. Kingfisher'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 the real estate broker license of Respondent Clista Wynea Kingfisher, aka Clista Wynea Newman, under Chapter 339, RSMo, and the regulations promulgated thereunder.

Respectfully submitted,

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Attorney General



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