

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

MISSOURI REAL ESTATE COMMISSION,)	
)	
Petitioner,)	
)	
v.)	Case No. 15-1575 RE PV
)	
DONNIE PAUL ZEIGLER)	
)	
Respondent.)	

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

Pursuant to notice the Missouri Real Estate Commission (“Commission”) held a hearing on February 7, 2018, 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. Rosemary Vitale and Charles Davis participated via telephone conference. The Commission was represented by Assistant Attorney General Craig Jacobs. The Commission offered the testimony of Terry W. Moore, Executive Director and Jeffrey Niemeyer, Examiner Field Supervisor and offered 11 exhibits which were admitted into the record. Respondent was properly and timely notified of the hearing. Respondent Donnie Paul Zeigler did not appeared in person or through 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. Donnie Paul Zeigler holds a broker license from the Commission, license no. 2004037049. Respondent's broker license was not current at all times relevant to this proceeding. Respondent's broker license was suspended by operation of law pursuant to Section 324.010 RSMo. which requires the suspension of the professional license of individuals who fail to file state tax returns or fail to pay state tax liabilities.

3. On June 9, 2016, the Commission issued its Order of the Missouri Real Estate Commission whereby placing the Respondent's broker license on two (2) years probation. The Order required Donnie Paul Zeigler 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. On or about July 6, 2016, the Commission conducted an audit of Respondent. The Commission's audit revealed that on or about 12/05/2013 Donnie Paul Zeigler acted as an agent for Riley Johnson and Kristen Johnson, the buyers in two transactions without obtaining a written agency agreement which is a violation of §339.780.3 RSMo. which provides cause to further discipline Donnie Paul Zeigler's license under § 324.042, RSMo.

5. To date, Donnie Paul Zeigler failed to provide the Commission with a copy of the fictitious name registration for "DP Ziggy" identified by the Commission's audit which provides cause to further discipline Donnie Paul Zeigler's license under § 324.042, RSMo.

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

6. The Commission's audit also revealed that Donnie Paul Zeigler failed to verify the accuracy of the closing statement for the Thomas Jarboe/Riley and Kristen Johnson transaction which provides cause to further discipline Donnie Paul Zeigler's license under § 324.042, RSMo.

7. The Commission's audit also revealed that Donnie Paul Zeigler failed to retain a copy of the closing statement for the Matthew Theirot/Riley and Kristen Johnson transaction which provides cause to further discipline Donnie Paul Zeigler's license under § 324.042, RSMo.

8. Further, Donnie Paul Zeigler failed to adhere to the terms of his probation by failing to keep his license in a current and active status as his license was suspended by operation of law on April 26, 2017 pursuant to 324.010 RSMo. which is a violation of Paragraph B of Section III of the Order which provides cause to further discipline Donnie Paul Zeigler's license under § 324.042, RSMo.

9. Finally, Donnie Paul Zeigler failed to adhere to the terms of his probation by failing to respond to correspondence sent to him by the Commission dated October 19, 2016, November 29, 2016, April 26, 2017 and July 2, 2017 within the 30 day timeframe is a violation of Paragraphs D & F of Section III of the Order which provides cause to further discipline Donnie Paul Zeigler's license under § 324.042, RSMo.

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 Zeigler'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 February 7, 2018, 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'

license. Respondent Donnie Paul Zeigler was not present nor was he represented by legal counsel. Petitioner was represented by Craig Jacobs, Assistant Attorney General, who presented evidence and testimony as stated on page 1 of this Order.

13. All the members of the Commission were present throughout the disciplinary hearing. Rosemary Vitale and Charles Davis participate via telephone conference.

II.

CONCLUSIONS OF LAW

14. Donnie Paul Zeigler's failure to adhere to the terms of his probation by failing to obtain written agency agreements, failing to provide the Commission with a copy of a fictitious name registration, failing to verify the accuracy of a closing statement, failing to retain a copy of a closing statement in violation of Paragraphs D and F of Section III of the Order are violations of the terms of the Order which provides cause to further discipline Donnie Paul Zeigler's license under § 324.042, RSMo.

15. Donnie Paul Zeigler's failure to adhere to the terms of his probation by failure to keep his license in a current and active status in violation of Paragraph B of Section III is a violation of the terms of the Order which provides cause to further discipline Donnie Paul Zeigler's license under § 324.042, RSMo.

16. Donnie Paul Zeigler's failure to adhere to the terms of his probation by failing to respond to correspondence sent to him by the Commission dated October 19, 2016, November 29, 2016, April 26, 2017 and July 2, 2017 within the 30 day timeframe given to him in violation of Paragraph D and F of Section III of the Order are violations of the terms of the Order which provides cause to further discipline Donnie Paul Zeigler's license under § 324.042, RSMo.

17. Pursuant to § 324.042, RSMo, the Commission has authority to impose additional

discipline against Donnie Paul Zeigler, for violating any disciplinary terms previously imposed or agreed to pursuant to the Settlement Agreement with the licensee.

18. 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.

19. 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.

20. 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.

21. The Commission finds Respondent Donnie Paul Zeigler has violated the terms and conditions of the Settlement Agreement that became effective June 9, 2016 as a result of the conduct identified in the Findings of Fact set forth above.

22. 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:

23. The real estate license of Respondent Donnie Paul Ziegler, license number 2004037049, is hereby **REVOKED**. All evidence of Respondent's licensure shall be

immediately returned to the Commission within 30 days of this Order along with a Closing of a Real Estate Brokerage/Sole Proprietorship form, if Respondent has not already done so.

24. 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 14TH day of FEBRUARY 2018.


Terry W. Moore, Executive Director
Missouri Real Estate Commission

BEFORE THE
MISSOURI REAL ESTATE COMMISSION

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

Petitioner,)

v.)

DONNIE PAUL ZEIGLER)
110 N. Cleveland St.)
Green Castle, Missouri 63544,)

Respondent.)

No. 15-1575RE PV1

RECEIVED

NOV 22 2017

MREC

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 Donnie Paul Zeigler ("Zeigler"):

1. The MREC was established pursuant to § 339.120, RSMo, for the purpose of executing and enforcing the provisions of §§ 339.010 to 339.180 and §§ 339.710 to 339.860, RSMo, (as amended), relating to real estate salespersons and brokers.

2. Zeigler holds a real estate broker license, no. 2004037049.

3. By Findings of Fact, Conclusions of Law and Disciplinary Order effective June 9, 2016 (Disciplinary Order), the MREC placed Zeigler's real estate broker license, no. 2004037049, on two (2) years' probation. A true and

accurate copy of the Disciplinary Order is attached to this Probation Violation Complaint as Exhibit A and is incorporated as if fully stated herein.

4. The MREC has jurisdiction over this matter pursuant to § 324.042, RSMo, which states:

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.

5. The Disciplinary Order further provides on page 5, paragraph I, in pertinent part:

[I]n the event the MREC determines that Respondent has violated any term or condition of this [Disciplinary] 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 [sic].

6. The period of Zeigler's probation is due to expire on June 9, 2018.

7. The relevant terms of the probationary period are stated as follows on pages 4 and 5 in the Disciplinary Order:

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. . . .

...

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.

...

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.

Count I
Audit

8. The MREC realleges and incorporates by reference Paragraphs 1 through 7 as though fully set forth herein.

9. The MREC conducted an audit of Zeigler's real estate practice, which found the following violations:

- a. Zeigler acted as an agent for Riley Johnson and Kristen Johnson, the buyers, in two transactions without obtaining a written agency agreement, in violation of § 339.780.3, RSMo, which states that "a designated broker acting as a

single agent for a buyer or tenant shall enter into a written agency agreement with the buyer or tenant;”

- b. Zeigler did not provide the MREC with a copy of the fictitious name registration for “DP Ziggy,” in violation of 20 CSR 2250-4.030(1), which states that “[a]ny broker doing business under any name other than the broker’s legal name . . . shall first comply with the provisions of sections 417.200–417.230, RSMo on the registration of fictitious names and shall furnish the commission a copy of the registration within ten (10) days of receipt of the official registration from the secretary of state;”
- c. Zeigler failed to verify the accuracy of the closing statement for the Thomas Jarboe/Riley and Kristen Johnson transaction, in violation of 20 CSR 2250-8.150(2), RSMo, which states that “it shall remain each broker’s responsibility . . . to review the closing statements to verify their accuracy . . .;”
- d. Zeigler failed to retain a copy of the closing statement for the Matthew Theirot/Riley and Kristen Johnson transaction, in violation of 20 CSR 2250-8.150(3), which

states that the “brokers for the buyer and the seller shall retain legible copies of both buyer’s and seller’s signed closing statements,” and 20 CSR 2250-8.160(1), which states that “[e]very broker shall retain for a period of at least three (3) years true copies of all . . . closing statements . . . relating to each real estate transaction that the broker has handled. . . .”

10. By letter dated October 19, 2016, the MREC sent Zeigler a letter at his address registered with the MREC requesting corrective action of the items discovered in the audit.

11. Zeigler did not respond to the MREC’s October 19th letter.

12. By letter dated November 29, 2016, sent to Zeigler at his address registered with the MREC, the MREC requested the same corrective action and advised him that failure to respond within 30 days would be a violation of 20 CSR 2250-8.170(1).

13. Zeigler did not respond to the MREC’s November 29th letter.

14. Zeigler’s failure to respond to the MREC’s letters constitutes a violation of 20 CSR 2250-8.170(1), which states:

(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.

15. By failing to respond to the MREC's letters and by violating the statutes and rules set forth above, Zeigler violated paragraphs D and F on pages 4 and 5 of the Disciplinary Order, thus providing cause to further discipline his real estate broker license under § 324.042, RSMo.

Count II
Failure to Comply with Closing Procedures

16. The MREC realleges and incorporates by reference Paragraphs 1 through 15 as though fully set forth herein.

17. On or about April 26, 2017, the MREC sent a letter to Zeigler at 110 N. Cleveland, Green Castle, MO 63544, his address registered with the MREC, informing him that his license had been suspended by operation of law effective April 26, 2017, and requesting that he must complete and return within ten (10) days a completed Affidavit for the Closing of a Real Estate Firm along with his license and any licenses affiliated with his sole proprietorship.

18. On or about June 2, 2017, the MREC sent another letter to Zeigler at his registered address informing him that he has failed to respond to the correspondence sent to him on April 26, 2017, and requesting submission of the closing documents by July 2, 2017.

19. Zeigler has not responded to the MREC's April 26, 2017 or June 2, 2017 letters.

20. Zeigler has failed to surrender his licenses or close his brokerage as requested by the MREC.

21. 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.

...

22. Zeigler has failed to respond in writing to the MREC's written requests or inquiries, in violation of 20 CSR 2250-8.170(1), supra.

23. Zeigler has failed to surrender his license and close his brokerage, in violation of 20 CSR 2250-8.155(2)(A)(3) and (9), regarding Closing a Real Estate 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[.]

...

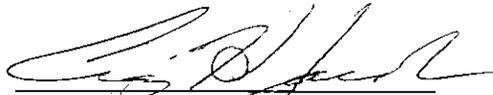
9. Notify the commission in writing on a form prescribed by the commission of the location where the records will be stored and that all requirements of 20 CSR 2250-8.155(2) have been met.

24. By failing to respond to the MREC's letters, by failing to maintain his license in a current and active state, and by violating the statutes and rules set forth above, Zeigler violated paragraphs B, D, and F on page 4 and 5 of the Disciplinary Order, thus providing cause to further discipline his real estate broker license under § 324.042, RSMo.

WHEREFORE, Petitioner requests the MREC to hold a hearing to determine that Zeigler has violated the terms of his probation and to impose further discipline under § 324.042, RSMo, for the violations noted above, and for other such relief as the Commission deems appropriate.

Respectfully submitted,

JOSHUA D. HAWLEY
Attorney General



Craig H. Jacobs #48358
Assistant Attorney General

207 West High Street
Post Office Box 899
Jefferson City, MO 65102
Telephone: 573-751-9623
Fax: 573-751-5660
craig.jacobs@ago.mo.gov

Attorneys for Petitioner