

Before the
Administrative Hearing Commission
State of Missouri



DREW ANSTINE,)	
)	
Petitioner,)	
)	
vs.)	No. 14-0463 RE
)	
MISSOURI REAL ESTATE)	
COMMISSION,)	
)	
Respondent.)	

DECISION

Drew Anstine’s license as a real estate salesperson must be revoked because he pled guilty to a criminal offense that mandates such revocation.

Procedure

On April 17, 2014, Anstine filed a complaint appealing the Missouri Real Estate Commission's (“MREC”) revocation of his real estate salesperson license. On April 22, 2014, the MREC filed a motion to dismiss or in the alternative for a more definite statement. By order dated May 14, 2014, we denied the motion to dismiss, but ordered Anstine to file an amended complaint. Anstine filed an amended complaint on May 29, 2014. The MREC filed its answer on May 30, 2014.

On June 18, 2014, the MREC filed a motion for summary decision with certified court records and an affidavit from its executive director. Regulation 1 CSR 15-3.446(6)¹ provides that we may decide this case without a hearing if the MREC establishes facts that Anstine does not dispute and entitle the MREC to a favorable decision. We notified Anstine that he could file a response to the motion on or before July 3, 2014, but he filed no response.

By failing to respond to the motion for summary decision, Anstine has failed to raise a genuine issue as to the facts the MREC established in its motion. 1 CSR 15-3.446(6)(B). Therefore, the following facts are undisputed.

Findings of Fact

1. The MREC issued Anstine a license as a real estate salesperson on August 27, 2008.
2. On August 6, 2013, Anstine pled guilty in the circuit court of Dallas County, Missouri, to statutory sodomy in the second degree, a Class C felony, in violation of § 566.064.²
3. The MREC issued an order revoking Anstine's license on April 9, 2014.

Conclusions of Law

We have jurisdiction to hear this complaint. Sections 339.100.6 and 621.045. The MREC has the burden of proving that Anstine has committed an act for which the law allows discipline. *Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App. E.D. 1989).

Under § 339.100.5, a guilty plea to certain offenses mandates revocation of a real estate salesperson's license.

Notwithstanding other provisions of this section, a broker or salesperson's license shall be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the following offenses or offenses of a

¹ All references to "CSR" are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

² RSMo 2000. Other statutory references are to the RSMo Supp. 2013.

similar nature established under the laws of this, any other state, the United States, or any other country, notwithstanding whether sentence is imposed:

(2) Any of the following sexual offenses: rape in the first degree, forcible rape, rape, statutory rape in the first degree, statutory rape in the second degree, rape in the second degree, sexual assault, sodomy in the first degree, forcible sodomy, statutory sodomy in the first degree, **statutory sodomy in the second degree**, child molestation in the first degree, child molestation in the second degree, sodomy in the second degree, deviate sexual assault, sexual misconduct involving a child, sexual misconduct in the first degree under section 566.090 as it existed prior to August 28, 2013, sexual abuse under section 566.100 as it existed prior to August 28, 2013, sexual abuse in the first or second degree, enticement of a child, or attempting to entice a child[.]

(Emphasis added.)

Anstine pled guilty to statutory sodomy in the second degree. Upon such an occurrence, neither the MREC nor this Commission has any discretion in this matter. Section 339.100.5 mandates that Anstine's license be revoked.

Summary

We grant the MREC's motion for summary decision, sustain its revocation of Anstine's license, and cancel the hearing.

SO ORDERED on July 14, 2014.

\s\ Karen A. Winn
KAREN A. WINN
Commissioner