

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

On-the-Record Presentation

June 16, 2008  
Jefferson City, Missouri  
Volume 3

DIRECTOR OF THE MANUFACTURED )  
HOUSING AND MODULAR UNITS )  
PROGRAM OF THE MISSOURI )  
PUBLIC SERVICE COMMISSION, )  
Petitioner, )  
vs. )Case No. MC-2008-0071  
AMEGA SALES, INC., d/b/a )  
QUALITY PREOWNED HOMES, )  
COLUMBIA DISCOUNT HOMES, MARK )  
TWIN MOBILE HOME SALES, )  
CHATEAU HOMES AND AMEGA SALES, )  
INC. )  
Respondent. )  
MORRIS L. WOODRUFF, Presiding  
DEPUTY CHIEF REGULATORY LAW JUDGE  
ROBERT M. CLAYTON, III (via phone),  
COMMISSIONER  
REPORTED BY: Monnie S. VanZant, CCR, CSR, RPR  
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1                                   A P P E A R A N C E S

2   For Staff of the Missouri Public Service Commission:

3                           Mr. Steven C. Reed  
4                           Public Service Commission  
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9   For Amega Sales, Inc.:

10                       Mr. Thomas M. Harrison  
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\*\*\* In-Camera Proceedings Contained in Volume 4, pages 110  
through 114.

1 P R O C E E D I N G S

2 JUDGE WOODRUFF: All right. Let's go on the  
3 record, then. Welcome, everyone. We're here today for an  
4 on-the-record presentation regarding the stipulation and  
5 agreement that has been filed in the case of MC-2008-0071,  
6 Case of the Director of the Manufactured Housing and  
7 Modular Units Program of the Missouri Public Service  
8 Commission versus Amega Sales, Incorporated, and its  
9 various doing business as entities.

10 We're going to begin today -- really, the  
11 purpose of today is to ask for the Commission -- give the  
12 Commissioners an opportunity to ask questions of the  
13 parties. We have Commissioner Robert Clayton with us on  
14 the telephone today. And several of the other  
15 Commissioners have asked -- given me a list of questions  
16 to ask, so I'll ask those after Commissioner Clayton has  
17 had his opportunity.

18 To start things off, we'll do entries of  
19 appearance beginning with the Director.

20 MR. REED: Steve Reed for the Director.  
21 P.O. Box 360, Jefferson City, Missouri, 65102.

22 JUDGE WOODRUFF: Thank you. And for the  
23 Respondent?

24 MR. HARRISON: Tom Harrison. Offices of 1103  
25 East Broadway, Columbia, Missouri.

1 JUDGE WOODRUFF: Thank you. And, Mr. Reed, why  
2 don't you start off by telling us who that is next to you?

3 MR. REED: Yes, Judge. Thank you. Seated next  
4 to me is Peter Lyskowski, L-y-s-k-o-w-s-k-i. Right,  
5 Peter?

6 MR. LYSKOWSKI: That's it.

7 MR. REED: All right. Mr. Lyskowski is an  
8 Assistant Attorney General who has been -- who has been  
9 handling the Attorney General's case involving Amega  
10 Sales, Inc., which was a -- that was a civil action filed  
11 in Boone County resulting in a consent judgment wherein  
12 Amega had agreed to undertake certain things in agreement  
13 with the Attorney General's office.

14 And Mr. Lyskowski has been handling that case,  
15 meeting with Amega. And I asked him to appear here in  
16 response to at least one of the Commissioner's questions  
17 about the status of that litigation and -- and where that  
18 is. That's why Mr. Lyskowski is here, Judge.

19 JUDGE WOODRUFF: All right. Thank you. Well,  
20 then to get started, Commissioner Clayton, I'll just let  
21 you ask any questions you'd like to ask.

22 COMMISSIONER CLAYTON: Well, thank you, Judge.  
23 And what I was going to recommend is if -- if the parties  
24 think this would be helpful. The other commissioners are  
25 unable to participate because of their attendance at the

1 mid -- midwest -- Mid America Regulatory Conference  
2 meeting. And there's been some discussion during the  
3 agenda meetings about this stipulation, and I'm wondering  
4 if it would be worthwhile for -- and I'm not asking for  
5 lengthy statements.

6 But I thought it would be helpful that if we  
7 could place in the transcript some statements. I'm  
8 assuming the statements from each of the attorneys there  
9 will be in support of the Commission approving the  
10 stipulation. But I think the other Commissioners would  
11 benefit from statements from each the parties indicating  
12 why they believe it should be approved.

13 We've had some specific discussion in the agenda  
14 regarding this case and prior stipulation. And I think  
15 the parties ought to be given a chance to make a few  
16 statements of why they think we ought to approve this.

17 So if they don't want to do that, that's  
18 perfectly fine. I can move straight to questions.

19 JUDGE WOODRUFF: All right. I'll give the  
20 parties an opportunity. Mr. Reed, do you want to go  
21 first?

22 MR. REED: I do. And I will be brief. I wanted  
23 to -- to point out to the Commissioners who were not able  
24 to attend or listen this morning that when they -- when  
25 they have the benefit of the transcript prepared for today

1     that the -- the Commission's enforcement history with  
2     Amega is set forth in some statements that I provided to  
3     the Commission at the last stipulation and agreement  
4     presentation. That transcript is in EFIS, and it does set  
5     forth case numbers and, also, Amega's history with the  
6     Commission, transcript from March 12th, 2008.

7                 I filed in support of this stipulation and  
8     agreement, the current one, suggestions in support and  
9     also proposed an order that I would ask the Commission to  
10    consider when it resolves this case. And, of course,  
11    those are available in EFIS as well.

12                From the agenda discussions that I'm aware of, I  
13    wanted to -- to make clear to all of the Commissioners  
14    that the intent of the stipulation and agreement is that  
15    Mr. DeLine is -- is -- is out of management and control of  
16    any dealer in the State of Missouri indefinitely or  
17    perpetually. I guess I want to say forever, but that's an  
18    awfully strong word. But I think that's the intent of the  
19    stipulation and agreement.

20                There's a provision that I think is quite clear  
21    about that. And though this -- this agreement calls for  
22    two years of probation, this agreement also calls for the  
23    Commission to enter an order that says that -- that  
24    Mr. DeLine will -- will not have a majority interest in  
25    any dealer in the State of Missouri.

1                Since the last stipulation and agreement, two  
2 homes -- two -- the two issues by the name of Quinton and  
3 Cashman came to the Director's -- they became more  
4 prominent in the Director's dealings with Amega. And we  
5 have resolved those as part of this stipulation and  
6 agreement to the best that we could.

7                We have agreements in principle regarding  
8 Quinton. And then Amega has agreed to re-install the  
9 Cashman home. One of the provisions in the agreement that  
10 deals with a home called the Hackman home has been  
11 located, and it's my understanding the parties are working  
12 on revolving that and any -- any problems with that home  
13 as set forth in the stipulation. So the parties, to a  
14 great extent, I think, are performing the agreement that's  
15 not yet approved by the Commission.

16               JUDGE WOODRUFF: Anything else, Mr. Reed?

17               MR. REED: I have two more things.

18               JUDGE WOODRUFF: Go ahead.

19               MR. REED: Amega -- according to the agreement,  
20 Amega is to disclose the name of the purchaser so that the  
21 Commission can make its own determination about whether  
22 the purchaser is independent of Mr. DeLine and Amega. We  
23 can do that as highly confidential information. That's  
24 the agreement we've -- we've come to.

25               And I think that the Commission may be

1 interested and maybe Amega could tell us about the status  
2 of a letter of credit that we have agreed to establish to  
3 address damaged manufactured homes. Thank you.

4 JUDGE WOODRUFF: All right. Thank you.  
5 Mr. Harrison?

6 MR. HARRISON: Yes, sir. Thanks, Judge. I'm  
7 going to echo in large part what Mr. Reed said, I guess.  
8 I think one of the primary benefits of the stipulation is  
9 that it brings finality to controversies that have been  
10 ongoing for some time.

11 I also think it's going to eliminate, resolve or  
12 at least make it unnecessary to litigate certain legal  
13 issues that are out there, which I think is a material  
14 benefit to the parties here. It will save time, it will  
15 save staff, it will save resources. It will save, you  
16 know, resources of the Commission and its staff and, of  
17 course, the Court system.

18 As Mr. Reed pointed out, my -- Mr. DeLine is  
19 giving up control here, which is a significant aspect of  
20 the agreement. One reason we think it should be approved,  
21 certainly.

22 It also cleans up several issues with regard to  
23 -- or issues with regard to several homes that are out  
24 there, not just the homes that are centrally at issue in  
25 this case, but the Hackman home, the Quinton home and some



1 others.

2           And I would agree that we've already provided  
3 most, if not all, of the information that the stipulation  
4 required with regard to the Hackman home. So I think  
5 we've already taken some good faith toward, you know,  
6 fulfilling our part of the agreement, at least in that  
7 regard.

8           We'll -- we'll discuss the letter of credit. I  
9 don't know if now is the right time to do that. I'm happy  
10 to do that if necessary. And we did agree to disclose the  
11 name of the buyer. I'm not sure at what point of the  
12 proceeding we would do that, but we're prepared to do that  
13 as well.

14           JUDGE WOODRUFF: All right. Before you disclose  
15 the identity of the buyer, we'll need to go in an  
16 in-camera session because right now we're broadcasting to  
17 the world over the --

18           MR. HARRISON: Very well. I thought so.

19           JUDGE WOODRUFF: Anything else you want to say  
20 at this point?

21           MR. HARRISON: Not -- not for now, Judge.

22           JUDGE WOODRUFF: All right. Commissioner  
23 Clayton?

24           COMMISSIONER CLAYTON: Mr. Reed identified the  
25 representative of the Attorney General's office. I didn't

1 know if that person had -- has a position or a statement  
2 that will be helpful to the proceedings.

3 JUDGE WOODRUFF: All right. I'll certainly  
4 allow him do that. But I -- since he's not a party and  
5 the -- the Attorney General is not a party in the case,  
6 I'll swear him in as a witness. So if you'd please raise  
7 your right hand?

8 PETER LYSKOWSKI,  
9 being first duly sworn to testify the truth, the whole  
10 truth, and nothing but the truth, testified as follows:

11 JUDGE WOODRUFF: All right. What would you like  
12 to tell us? First of all, tell us your name.

13 MR. LYSKOWSKI: My name is Peter Lyskowski,  
14 L-y-s-k-o-w-s-k-i. I work in the Attorney General's  
15 Office. And I don't know if it would be more beneficial  
16 for me to talk about the stipulation or talk about our  
17 experience with Amega. But --

18 JUDGE WOODRUFF: Why don't you start with the  
19 stipulation?

20 MR. LYSKOWSKI: Okay. That's short and sweet.  
21 We have no position on the stipulation. We -- I've  
22 reviewed it in a cursory fashion, just out of curiosity,  
23 and we don't have any position on whether or not the  
24 Commission ought to approve it or reject it or modify it  
25 or anything.

1 JUDGE WOODRUFF: And does this stipulation  
2 agreement cause any -- have any conflict or synergies with  
3 the Attorney General's enforcement actions?

4 MR. LYSKOWSKI: No. Not from -- from my brief  
5 review of the stipulation.

6 JUDGE WOODRUFF: Okay. Well, why don't you tell  
7 us what the situation is with the Attorney General's  
8 office?

9 MR. LYSKOWSKI: Okay. We filed suit against  
10 Amega and DeLine Finance and A&G Commercial Trucking,  
11 several other companies that are sort of affiliated with  
12 the Amega enterprise, if you will, in 2004.

13 We resolved that lawsuit in the form of a  
14 consent judgment in 2006. And, briefly, the consent  
15 judgment required Amega to pay around, I think, \$450,000  
16 of consumer restitution that went directly back to  
17 consumers.

18 \$100,000 Amega paid to -- to our merchandising  
19 practices revolving fund, which accounts for our costs and  
20 fees associated with the litigation, and a \$50,000 civil  
21 penalty which went to Boone County Treasurer. And Amega  
22 has paid that money at this point, obviously.

23 One of the other terms of our consent judgment,  
24 which is perhaps of bearing here, is that Amega agreed to  
25 have quarterly meetings with our office to discuss any

1 ongoing complaints.

2           At the time we filed the lawsuit against Amega,  
3 we had around 130 complaints on file against the various  
4 companies that we named as defendants. And in the two  
5 years or so in which we worked this case, after filing, we  
6 received an additional about 50 or so complaints.

7           So at the time of the resolution of the case,  
8 there were approximately 180 complaints that were  
9 addressed in some form or fashion by the judgment. And  
10 one of the things that we thought may happen was that we  
11 may receive additional complaints. And we thought, Well,  
12 in the future, if we could have a quarterly meeting  
13 ongoing, we could address those complaints quickly and get  
14 the consumers the relief they deserve and things of that  
15 nature.

16           We had quarterly meetings for a time. And we  
17 have -- since the date of the resolution of our case, we  
18 have received 26 complaints. So in about two years, since  
19 that time, we've received 26 complaints. And the  
20 complaints have otherwise basically dried up in the sense  
21 that we -- we currently have two complaints that we're  
22 working on, one of which is being addressed this week in  
23 the form of a Public Service Commission inspection field  
24 review of the home in question.

25           And so some months ago, I talked with

1 Mr. Harrison, and we decided that we would cease having  
2 quarterly meetings unless at the Attorney General's  
3 election, they were to begin again. So at this point, we  
4 believe that the -- as far as we know, based on the  
5 complaints that we've received, we believe the terms of  
6 our judgment are being complied with and -- and that Amega  
7 has been responsive to the post judgment complaints that  
8 we have received.

9 JUDGE WOODRUFF: All right. Thank you.  
10 Commissioner Clayton, did you have any questions?

11 COMMISSIONER CLAYTON: I do have questions.  
12 Thank you, Judge. First of all, I want to work through  
13 some pieces of the stipulation. And my memory is not as  
14 clear as I was hoping with regard to the last stipulation.  
15 So I want to direct my questions to Mr. Reed first. And I  
16 guess I want to make sure. Can you hear me okay?

17 MR. REED: Yes.

18 COMMISSIONER CLAYTON: Okay. I'd like to walk  
19 through these counts. Counts 1 and 2 are associated with  
20 Amega and are for problems associated with, I believe, the  
21 Nelson family; is that correct?

22 MR. REED: Correct.

23 COMMISSIONER CLAYTON: Have each of those  
24 violations been cured in the sense that is -- are the --  
25 are the Nelsons now satisfied or happy where they stand?

1                   MR. REED: Yes, Commissioner. They are -- they  
2 have been made whole. They've entered into an agreement  
3 with Amega some time ago. And that is resolved. Yes.

4                   COMMISSIONER CLAYTON: Okay. So -- so the  
5 Nelsons are -- are no longer calling you? Correct?

6                   MR. REED: That's right.

7                   COMMISSIONER CLAYTON: Okay. Count 3, Count 4,  
8 associated with quality pre-owned homes were problems  
9 associated with homes sold to the Whitefords. Can you --  
10 can you tell me whether or not the claims made by the  
11 Whitefords have been satisfied or not?

12                  MR. REED: Those have been satisfied. I deposed  
13 Mr. Whiteford, and he is very happy with the arrangement  
14 that was made. There was an agreement reached with Amega  
15 as well.

16                  COMMISSIONER CLAYTON: Okay. Count 5 and Count  
17 6 were associated with a home sold by Columbia Discount  
18 Homes, but I neglected to write down the name. Have --  
19 have the -- have the purchasers been cured in -- in that  
20 count?

21                  MR. REED: Is that -- I don't want to confuse  
22 the two. Is this the Gilmore --

23                  MR. HARRISON: Gilmore.

24                  MR. REED: And that is the case where there was  
25 no sale?

1

2 MR. HARRISON: Right.

3 MR. REED: There was no sale.

4 MR. DELINE: Right. There was no sale.

5 MR. REED: I'm sorry. I had the two reversed.

6 Whiteford, there was no sale. And I think that

7 Mr. Whiteford received his -- his down payment or any fees

8 that he paid.

9 MR. HARRISON: That's right.

10 MR. REED: So there was no sale. Gilmore, that

11 was resolved.

12 COMMISSIONER CLAYTON: Okay. So Gilmore is the

13 gentleman that's satisfied, they're very happy with it?

14 MR. REED: Yes. That's correct.

15 COMMISSIONER CLAYTON: Okay. So -- so the

16 underlying complaint associated with this case have been

17 satisfied?

18 MR. REED: That's correct.

19 COMMISSIONER CLAYTON: Okay. And -- and those

20 were satisfied in the last stipulation; is that correct?

21 MR. REED: Those were actually satisfied before

22 we ever filed the complaint.

23 COMMISSIONER CLAYTON: Okay. Okay. Now, the

24 next question that I have is that this stipulation will be

25 applicable to all five of the registrations associated

1 with Amega and Mr. DeLine; is that correct?

2 MR. REED: That's correct.

3 COMMISSIONER CLAYTON: And all five will have  
4 their registration revoked and placed on probation for a  
5 period of two years?

6 MR. REED: That's -- that's -- that's the matter  
7 in which I'm asking the Commission to act. That's  
8 correct. So revoke the registrations, stay the effect of  
9 the revocation under the terms of probation.

10 COMMISSIONER CLAYTON: Okay. Now, to do that,  
11 do we have sufficient facts and evidence that will -- were  
12 admissions made by the Respondent that would support such  
13 a -- a revocation?

14 MR. REED: Yes. The -- the facts that we agreed  
15 upon support -- would support a finding by the Commission.  
16 Now, the -- the parties have not agreed to this finding.

17 Rather, there is a stipulation of facts that  
18 it's my position are sufficient for the Commission to make  
19 a finding that Amega has violated 700.100.3(6), failure to  
20 proper -- to arrange for proper installation of a home.

21 COMMISSIONER CLAYTON: Does Amega make those  
22 statements? I mean, are they verified and those  
23 statements -- I mean, is it clear that -- that that  
24 evidence is there?

25 I mean, I understand from your position. But --



1 but is the Respondent agreeing that -- that that evidence  
2 is -- warrants revocation coming from this proceeding?

3 MR. REED: I -- I don't know that Amega agrees  
4 with what kind of finding the Commission can make. But we  
5 do agree on the facts.

6 COMMISSIONER CLAYTON: Does -- well, I mean,  
7 maybe I should be asking Mr. Harrison this. I mean,  
8 Mr. Harrison, are you agreeing that according to this  
9 stipulation that the Commission is -- is -- is able to  
10 revoke the registrations of the five companies associated  
11 with Amega?

12 MR. HARRISON: We've agreed, obviously, to that  
13 -- we've agreed in the body of the stipulation that that  
14 can occur, that the suspension and revocation -- or  
15 suspension and probation are -- you know, they're agreed  
16 to. We also agreed to and stipulated to the facts that  
17 are set forth on pages 1 --

18 COMMISSIONER CLAYTON: I hate to do this. Could  
19 you speak up or speak closer to the microphone? I can  
20 barely hear you.

21 MR. HARRISON: Yes. We certainly agree that the  
22 Commission can -- can suspend and put on probation the  
23 licenses. That's clearly agreed to in the stipulation.

24 We also agreed to the facts -- you know, we --  
25 we did stipulate to the facts that are set in the

1 stipulation on pages 1 and 2. No question about that.

2 What legal conclusions the Commission draws as a  
3 result of those facts is, of course, up to the Commission.  
4 And there isn't anything in the stipulation on that  
5 particular point. Does that --

6 COMMISSIONER CLAYTON: Does this -- would you --  
7 could we analogize this to like an Alford plea? Are you  
8 basically admitting to certain acts or a certain level of  
9 evidence, but you're not agreeing to admit guilt or  
10 something like that? Is that --

11 MR. HARRISON: Yeah. I mean, when we presented  
12 the first stipulation, that's exactly what we  
13 contemplated. And one of the reasons, as I understand it,  
14 that that original stipulation wasn't accepted is that  
15 there was no recitation of facts, which we understand was  
16 added to, you know, comply with some case law in Missouri.

17 So, yeah, I guess I agree that a rough analogy  
18 would be an Alford plea. We are not, you know, if you,  
19 will, pleading guilty certainly or even in the civil  
20 context admitting liability. But we are agreeing and  
21 stipulating to the facts that are set forth in the  
22 stipulation.

23 COMMISSIONER CLAYTON: Okay. So -- so here on  
24 the record, if -- if the Commission decides to revoke the  
25 registration of each of the Amega affiliates and place you

1 on probation, we -- we shouldn't anticipate that you all  
2 would raise some objection?

3 MR. HARRISON: We've -- we've agreed to that  
4 disciplinary action being taken. That's right.

5 COMMISSIONER CLAYTON: Okay. Mr. Reed,  
6 associated with this case, we had \$50,000 in penalties; is  
7 that correct?

8 MR. REED: Correct.

9 COMMISSIONER CLAYTON: And is that the same  
10 amount that was in the last stipulation?

11 MR. REED: That's correct.

12 COMMISSIONER CLAYTON: All right. And I believe  
13 your suggestions state that the maximum would be \$1,000  
14 per violation, and we think there were five or six  
15 violations, so a maximum of five or \$6,000 in penalties?

16 MR. REED: That may be right, yes. Unless I  
17 proved a continuing violation day-to-day of -- of the  
18 homes being offered for sale.

19 COMMISSIONER CLAYTON: Okay.

20 MR. REED: And so that -- that's more difficult  
21 to prove, I think, than the fact that -- than there was --  
22 that there was a sale.

23 COMMISSIONER CLAYTON: All right.

24 MR. REED: So that occurred one time, of course.

25 COMMISSIONER CLAYTON: Okay. A principle

1 difference between this stipulation and the last  
2 stipulation is that Mr. DeLine would be required to exit  
3 control and management responsibilities associated with  
4 the manufactured housing business, and that is in  
5 perpetuity. That's not limited to a two-year period; is  
6 that correct?

7 MR. REED: That is correct, Commissioner.

8 COMMISSIONER CLAYTON: All right. How do you  
9 enforce this after a two year period if -- if the  
10 probationary period is satisfied by the -- by each of the  
11 five entities, the company is -- is -- they're reinstated  
12 in terms of their registration? How do you enforce on the  
13 beginning, you know, somewhere in Year 3 if Mr. DeLine  
14 returns to control, manage, operating any of these  
15 businesses or any other businesses in the State of  
16 Missouri?

17 MR. REED: What I contemplate is that upon  
18 approval of this stipulation and agreement, the Commission  
19 will enter an order. And what I mean by that is one of  
20 the ordered paragraphs will -- will recite the agreement.  
21 And the stipulation agreement that provides that DeLine is  
22 perpetually out of management and control.

23 And there -- that -- that order, of course, is  
24 effective beyond the two years of probation. That is an  
25 order without limitation. So what I contemplate is that

1 three years down the road, if Mr. DeLine comes back into  
2 operate and manages a dealership that I would file suit  
3 for an injunction to prohibit him from doing so under  
4 Section 386.360. I would attempt to enforce the  
5 Commission's order.

6 COMMISSIONER CLAYTON: Okay. Now, the  
7 enforcement mechanism that's contemplated in this  
8 stipulation, is -- is there anything really new here from  
9 the last case? I know there's a reference to 386 and a  
10 provision about mandamus and prohibition.

11 But is there anything really new here that would  
12 provide for enforcement of the agreement?

13 MR. REED: I think the only aspect of this  
14 stipulation and agreement that is new is that -- is that  
15 because of the concerns with the last stipulation and  
16 enforcement of it, I -- Bob Berlin and I with the General  
17 Counsel's office had undertaken additional research. And  
18 -- and what we had determined is that if the Commission  
19 issues an order, instead of just approving the stipulation  
20 and agreement, we believe that the Commission should issue  
21 an order directing Amega to -- each of -- each of the  
22 provisions of the stipulation and agreement will be an  
23 ordered paragraph.

24 So that's -- that's a little bit different than  
25 just approving the stipulation and agreement. And so I --

1 I believe that that makes each provision of the  
2 stipulation and agreement enforceable under 386.360.  
3 So I think our approach, our understanding of how to  
4 enforce this has become a little more sophisticated, and I  
5 think we're a little more comfortable with -- with being  
6 able to enforce the agreement.

7 COMMISSIONER CLAYTON: Okay. Okay. And I think  
8 you've also changed the language in this that -- with the  
9 facts that are in the record and the action taken by the  
10 Commission to actually revoke the registrations would be  
11 different than what was in the last one.

12 So that would provide a more -- more timely  
13 enforcement action either before the Commission or the  
14 Circuit Court.

15 MR. REED: That's correct, Commissioner. And I  
16 believe if -- based upon the facts, the Commission can  
17 revoke and then stay that revocation and order probation.  
18 And so what's -- what's happened is that this claim --  
19 this complaint has been adjudicated. And it is finished.  
20 So the only question for the future is compliance with the  
21 agreement and the Commission's order.

22 COMMISSIONER CLAYTON: Okay. Okay. Let's talk  
23 about the letter of credit, the \$70,000 to make repairs  
24 over a five-year period. How -- how is this amount  
25 established? How did you come up with the \$70,000 figure?

1                   MR. REED: Mr. Pleus is here. And I  
2 remember the calculation that we did when we were in  
3 settlement negotiations. So if I could -- Mr. Pleus, do  
4 you recall how we calculated that?

5                   JUDGE WOODRUFF: Let me swear you in first,  
6 Mr. Pleus. Why don't you come on up to the podium?  
7 Please raise your right hand.

8                   RON PLEUS,  
9 being first duly sworn to testify the truth, the whole  
10 truth, and nothing but the truth, testified as follows:

11                  JUDGE WOODRUFF: All right. You may answer the  
12 question.

13                  MR. PLEUS: In -- in response to that question,  
14 I -- I think that was -- it was negotiated per home, how  
15 many we had and how much it cost to fix the previous  
16 homes. And I think Mr. DeLine even had input into that.

17                  And we calculated number of homes times the  
18 average repair rate of those homes at that time, and  
19 that's where the 70,000 came from. So we actually had a  
20 methodology for that, but I don't -- I don't remember  
21 exact details of that methodology. But, yes, that's --  
22 that's where it came from.

23                  COMMISSIONER CLAYTON: Well, I guess what I'm  
24 trying to figure out is, is this 70,000 enough for all of  
25 the outstanding complaints that are out there to -- to

1 address all the customers or consumers that -- that have  
2 been affected?

3 MR. PLEUS: I think the answer to that is all of  
4 the existing identified homes are not part of this 70,000.  
5 These are all future homes that may come into play after  
6 this is signed. Okay? Because Mr. DeLine has agreed to  
7 make all the repairs to the ones that are identified.

8 COMMISSIONER CLAYTON: Okay. Okay.

9 MR. REED: We -- Commissioner, we did -- we had  
10 a way of coming up with a number of -- of who was -- I  
11 think it was the number of homes damaged in transit dating  
12 back to 2003. And we -- we -- we came up with the records  
13 that Mr. Pleus had an estimate of how many we might find  
14 in the future extending five years out. And so we had --  
15 we had a number of units per year times the --

16 MR. PLEUS: Average repair.

17 MR. REED: -- average repair amount, and that's  
18 how we came up with the 70. But I don't remember the  
19 specific numbers.

20 COMMISSIONER CLAYTON: Okay.

21 MR. PLEUS: I think it was like 21 homes over  
22 the last four years. And we identified and rounded it up  
23 based on average cost of repairs of being somewhere  
24 between five and \$10,000, the way it looks.

25 COMMISSIONER CLAYTON: Okay. Let's talk about



1 the individual repairs. The -- the stipulation goes  
2 through and addresses a number of individual requirements,  
3 including repairing the eight red tagged homes so that  
4 they cannot be sold as used homes. Is that correct,  
5 Mr. Pleus?

6 MR. REED: That's correct.

7 JUDGE WOODRUFF: Okay.

8 COMMISSIONER CLAYTON: And that addresses all of  
9 the red tagged home issues?

10 MR. PLEUS: That's correct.

11 COMMISSIONER CLAYTON: All right. The Hackman  
12 home will be repaired to comply with HUD. And do you have  
13 -- does the Director have the authority to make that  
14 decision when repairs have been completed, or will the  
15 Hackmans be kind of left out to -- to haggle with the  
16 company on what is -- what is the definition of finished  
17 or repaired?

18 MR. PLEUS: We -- we have worked with -- with  
19 Amega and the homeowner on this particular home to make  
20 sure the repairs are -- are -- are made in compliance with  
21 the HUD code. And everyone has agreed on those repairs to  
22 date. And we plan to move forward. I think we may even  
23 have dates where we're going to start those repairs.

24 COMMISSIONER CLAYTON: All right. But you will  
25 be involved?

1                   MR. PLEUS: Absolutely.

2                   COMMISSIONER CLAYTON: You will be involved with  
3 -- I mean, as those repairs are made to make sure that  
4 they are addressed adequately?

5                   MR. PLEUS: Yes. And it will be re-inspected  
6 when they're completed.

7                   COMMISSIONER CLAYTON: Okay. Okay. Are we  
8 going to address all the transit damaged homes that you're  
9 aware of?

10                  MR. PLEUS: That's correct.

11                  COMMISSIONER CLAYTON: Amega is going to buy  
12 back the Quinton home; is that correct?

13                  MR. PLEUS: That's correct.

14                  COMMISSIONER CLAYTON: And re-install the  
15 Cashman home so both the Cashmans and the Quintons are  
16 going as to -- are satisfied with the way this stipulation  
17 is --

18                  MR. PLEUS: Yes. When I -- when I -- when I  
19 have spoke with them, they have -- they have approved that  
20 in our discussions with them. And I recently spoke with  
21 Ms. Quinton like last Friday.

22                  COMMISSIONER CLAYTON: Okay. Are each of these  
23 items that if you didn't have a stipulation and we were to  
24 proceed to hearing, where would we stand -- I mean, do we  
25 have the ability to order repairs or each of these other

1 actions, like addressing repairs in transit damaged --  
2 damaged homes or addressing re-installation or addressing  
3 -- do we have the ability to -- do we have the ability to,  
4 you know, enforce that in this case, or would that have to  
5 be a separate action or an action filed individually by  
6 each of the consumers?

7 MR. REED: Commissioner, this is Steve Reed.  
8 For -- for -- let's take the -- if we took the Quinton and  
9 the Cashman homes, for instance, if -- if we're not able  
10 to resolve this -- those issues through this agreement,  
11 Mr. Pleus and I had discussed filing separate complaints  
12 for each of those -- for each of those cases.

13 However, if we allege a violation of section  
14 407.020, the Merchandising Practices Act, the remedy for  
15 that is revocation or suspension of license. And there is  
16 -- there's no mention of repair or how the -- the customer  
17 would be taken care of.

18 And I think on the Cashman home, that would  
19 likely be a violation of some provision of Chapter 700,  
20 which would provide for penalties and -- and not  
21 necessarily repair of that home. So we get repair of the  
22 homes through some negotiated settlement, of course,  
23 through threatening the complaint or -- or bringing the  
24 complaints and then ultimately settling these cases, so  
25 that the customers are made whole.

1                   COMMISSIONER CLAYTON: Okay. Okay. I think the  
2 last question that I have, if I could address that to Mr,  
3 Mr. Lyskowski?

4                   MR. LYSKOWSKI: Yes.

5                   COMMISSIONER CLAYTON: Is he still there?

6                   MR. LYSKOWSKI: Yes.

7                   COMMISSIONER CLAYTON: I understand you're not  
8 taking any position on the stipulation and agreement. And  
9 I understand that you're here for informational purposes  
10 only. But I guess can you give me any guidance on whether  
11 the Attorney General believes this -- this -- the  
12 resolution of this complaint as we, you know, deal with  
13 kind of concurrent or, you know, different types of  
14 jurisdiction in these cases, is this a constructive way of  
15 resolving this? Or -- or does the Attorney General have  
16 an opinion -- an opinion that would provide guidance on  
17 what it thinks would be more helpful?

18                  MR. LYSKOWSKI: Well, excuse me. I -- I think  
19 this is a -- a constructive way to resolve this. One of  
20 the -- there's sort of a -- a two-prong thing here. One  
21 is, you know, what can you do to provide help to the  
22 consumers who were victimized by the alleged conduct.

23                  And, clearly, that's being addressed. And in  
24 our lawsuit and the resolution that we fashioned, that was  
25 our -- our chief aim. Secondarily, then, what do you do

1 to make sure it doesn't happen again, to make sure we  
2 don't have to have these types of proceedings ongoing,  
3 whether they're civil cases brought by the AG or -- or  
4 complaints in front of the Commission?

5 And I think the -- the remedy or -- or the  
6 resolution here, vis-a-vis, the ownership and -- and also  
7 the probation and revocation proposal, I think, is -- is  
8 definitely constructive in that regard.

9 COMMISSIONER CLAYTON: Okay. Okay. Well, it --  
10 I understand your position, and I won't try to extract  
11 more of a -- of a position out of you. I -- I think the  
12 numbers that you used, the figures that you used on the  
13 number of complaints and the cases that the Attorney  
14 General has pending also involving this company and -- and  
15 its affiliates raises additional concerns.

16 And I guess just making sure that if the  
17 Commission is going to consider adopting or -- or  
18 approving this stipulation and agreement that we're not  
19 going to be cross-wise with the Attorney General in the  
20 prosecution of its consumer complaints or that there's not  
21 so much more activity out there that we're ignoring other  
22 problems.

23 I mean, if there is -- I guess what I'm saying  
24 is that the purpose of this stipulation moves Mr. DeLine  
25 out of the business in time under -- under a plan

1 and addresses each of these issues. And if there are so  
2 many complaints that are coming in through your office  
3 that we need to consider just a straight revocation, I  
4 think we need to know that from the Attorney General's  
5 perspective.

6 MR. LYSKOWSKI: Understood. And -- and -- I --  
7 I don't think that anything here that I've seen or heard  
8 would -- would cause any heartburn, vis-a-vis, our  
9 judgment or -- or -- or our ability to -- to bring  
10 additional actions.

11 I don't think that -- that there's any way that  
12 -- that those activities are hampered by this stipulation.  
13 And the -- the second concern about are there continued  
14 issues that are perhaps on our radar screen and not on the  
15 Commission's, for whatever reason, I think the answer to  
16 that is really there aren't.

17 The -- 2008, so far, we've received one  
18 complaint. And in 2007, we received eight complaints. So  
19 the numbers that we have really show that -- and I'm not  
20 here to be a character witness for Amega or for Mr. DeLine  
21 or anything like that, and I don't know what exactly the  
22 cause is, but I would like to believe that the judgment  
23 that we got was -- was sufficient to send the message that  
24 -- that there needs to be a change in conduct. And from  
25 what we can see on -- on complaints we received, that has

1     happened.

2                   COMMISSIONER CLAYTON:   Okay.   Okay.   Well, I --  
3     I thank all the parties for coming in today, and I  
4     appreciate your patience with me calling in.   I was  
5     supposed to be there in person.   We're dealing with some  
6     issues in Hannibal that don't allow me to -- to be there  
7     in person, so I appreciate your patience with me.   From  
8     that, Judge, I don't think I have any other questions.

9                   JUDGE WOODRUFF:   All right.   I do have a couple  
10    of matters I wanted to deal with.   And, Commissioner  
11    Clayton, you can certainly stay on the line if you want  
12    to.

13                  COMMISSIONER CLAYTON:   I'll -- I'll stay on and  
14    listen for a little bit.

15                  JUDGE WOODRUFF:   All right.   The first item I  
16    want to deal with is the identity of the buyer, which we  
17    need -- Mr. Harrison you indicated earlier that you would  
18    reveal.   Before we do that, I'll go in-camera now.

19                  REPORTER'S NOTE:   At this point, an in-camera  
20    session was held, which is contained in Vol. 3, pages 110  
21    through 114.

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1 JUDGE WOODRUFF: All right. We're back in  
2 regular session. Commissioner Jarrett had several  
3 questions that he had asked me to -- to bring up. The  
4 first one involves the -- the various dollar amounts.

5 The -- paragraph 4 of the agreement talks about  
6 \$1,000 letter of credit being used to pay for damage to  
7 mobile homes damaged in transit prior to the agreement.  
8 And I believe you indicated that that would be a new and  
9 separate -- that would be for claims that have not been  
10 identified yet; is that -- is that correct, Mr. Reed?

11 MR. REED: We -- that provision contemplates  
12 transit damaged homes that are discovered in the future.  
13 This is a fund specifically for those that -- that --

14 JUDGE WOODRUFF: Okay.

15 MR. REED: What we believed happened was that  
16 several units were damaged in transit, and they were  
17 repaired in some fashion, but may not have been prepared  
18 -- may not have been repaired appropriately. So it's our  
19 position that ultimately problems will come to light and  
20 will have to be resolved. And that's what this fund is  
21 primarily for.

22 JUDGE WOODRUFF: Okay. Okay. Mr. Harrison, you  
23 would agree with that statement?

24 MR. HARRISON: We agree.

25 JUDGE WOODRUFF: All right. There was also a



1 specific, I believe, \$70,000 set aside for the Quinton  
2 home. Is that -- is my memory correct on that?

3 MR. REED: It's not set aside. What we had --  
4 what we had everyone deferred to do was to -- was to work  
5 with Ms. Quinton to -- to -- to settle this in some  
6 fashion. And so we have an agreement that Amega will pay  
7 70,000 in the future in return for a release of liability  
8 and a couple of -- I think release of any lien on the  
9 manufactured home.

10 JUDGE WOODRUFF: Okay. Now, that \$70,000 that's  
11 going to go to Quinton is separate from the 70,000 that's  
12 going to be in the letter of credit?

13 MR. REED: Yes.

14 JUDGE WOODRUFF: And, Mr. Harrison, you agree  
15 with that, also?

16 MR. HARRISON: Agreed.

17 JUDGE WOODRUFF: All right. Then the \$50,000 to  
18 the school fund is separate from the previous two?

19 MR. REED: Yes.

20 JUDGE WOODRUFF: And, Mr. Harrison, you agree?

21 MR. HARRISON: Yes, sir.

22 JUDGE WOODRUFF: I also wanted to ask you a  
23 little bit more about the Quinton home and the settlement  
24 release. Is -- is Ms. Quinton represented by counsel?

25 MR. REED: Ms. Quinton is represented by counsel

1 on other issues, and so we have worked with counsel. We  
2 were a little bit uncomfortable with trying to resolve  
3 this issue while she had counsel. But the attorney, his  
4 name escapes me, Maguire, Bruce Maguire from -- I think  
5 from Hannibal, Missouri, indicated that he was  
6 representing Ms. Quinton on some other issues and not  
7 necessarily the dispute with Amega.

8 And so we -- we spoke with Mr. Maguire. We had  
9 an idea to resolve this case. He agreed to speak with Ms.  
10 Quinton about it. I assume he did. He also agreed that  
11 we could contact Ms. Quinton separately and attempt to  
12 negotiate the dispute with Amega.

13 JUDGE WOODRUFF: All right. There was mention  
14 of a release that she would be signing. What is she  
15 releasing?

16 MR. REED: She'll be releasing -- well,  
17 potentially, I think what's at issue here, if we had to  
18 file a complaint on the Quinton case, it would have been a  
19 case under 407, Merchandising Practices Act, where --  
20 where -- I think I would have called it a fraud case in  
21 that she -- she ordered a home that she said she didn't --  
22 she didn't get. She didn't get the one she ordered. And  
23 so she would have a private right of action as well.

24 JUDGE WOODRUFF: Okay.

25 MR. REED: So I think that's what she'll

1 ultimately be releasing is any claim that arises out of  
2 that sale agreement.

3 JUDGE WOODRUFF: And 70,000 was the purchase  
4 price?

5 MR. REED: The 70,000 -- I think the purchase  
6 price was 75,000.

7 MR. HARRISON: Something like that. A little  
8 bit more than 70. But she lived in the house for, I don't  
9 know, a couple years, I think.

10 MR. REED: Yeah. She had lived in the house a  
11 period of time. Mr. Pleus, was it a year or two years?

12 MR. PLEUS: I think it was about at least 18  
13 months.

14 MR. REED: We attempted -- yeah. We ended up at  
15 70,000.

16 JUDGE WOODRUFF: Well, I think what I -- the  
17 concern was that there wasn't any personal injury  
18 situation here, like -- I remember -- I think it was with  
19 a different dealer, the house that blew off its foundation  
20 and wasn't probably installed.

21 MR. REED: No. The issue here was did she get  
22 the appropriate insulation. Was it thick enough or not?  
23 She ordered -- she bargained for, I think, thicker walls.  
24 She got the thinner ones. That's the claim.

25 JUDGE WOODRUFF: Okay. And, Mr. Harrison,

1 anything you disagree with there?

2 MR. HARRISON: No. That's -- that's -- that's  
3 the claim. She doesn't live in the house anymore, as I  
4 understand it. So it's not a matter of -- that won't be  
5 an issue.

6 JUDGE WOODRUFF: Okay. Commissioner Jarrett's  
7 next question was about the application of what -- what  
8 law is being applied in the interpretation of this  
9 agreement?

10 Is that -- I understand that there were some  
11 changes made to the underlying law, statutes and the last  
12 legislative session. Is this agreement to be interpreted  
13 under the laws that exist now or under the future law or  
14 some combination? And I'll let you explain.

15 MR. REED: No. It would have to be --

16 COMMISSIONER CLAYTON: And I'm going to sign  
17 off. I don't want to interrupt you.

18 JUDGE WOODRUFF: Okay. Goodbye, Commissioner.

19 MR. REED: Judge, it would be interpreted under  
20 the current law, the law in effect on the date we -- we  
21 did this agreement.

22 Now, the changes in the law, I'm -- I don't know  
23 that I'm familiar with all of them. I think the  
24 definition of a dealer may have changed. But I'm not  
25 aware of how any other changes would affect this

1 agreement.

2 JUDGE WOODRUFF: Okay. Mr. Harrison, you're in  
3 agreement?

4 MR. HARRISON: Yeah. I agree with that.

5 JUDGE WOODRUFF: One more question. And this,  
6 again, goes back to paragraph 4 with the letter of credit.  
7 I'll just read what's -- what's written here. The  
8 sentence starting with, After the expiration of five  
9 years, can the parties clarify that if a claim is made  
10 prior to the running of the five years that is not yet  
11 paid within that period, it can be paid after the five  
12 years but if the letter of credit has not been terminated?

13 MR. REED: That was the position that we had  
14 hoped to get to. I would have to look through -- I -- I  
15 thought we achieved this. In other words, I thought we  
16 achieved through the language in this paragraph that if --  
17 if a home were discovered after four years, 11 months and  
18 29 days, although payment would be made outside of the  
19 five years that it would nonetheless be paid. So the  
20 intent was to capture any claims made during the five-year  
21 period.

22 JUDGE WOODRUFF: Okay. Mr. Harrison --

23 MR. HARRISON: Yeah. I agree with that. I  
24 mean, the sentence -- not to read to you, Judge, but it  
25 says, After the expiration of five years and when all

1     claims made during that five years are paid, the letter of  
2     credit is terminated. So both of those things have to  
3     happen before the LC is released. So I agree with  
4     Mr. Reed's interpretation.

5                 JUDGE WOODRUFF: All right. And one last  
6     sub-question here. The termination of the letter of  
7     credit will occur by decision of the Commission and the  
8     Director, not merely by the expiration of time; is that  
9     correct? Does the Commission or the Director have to sign  
10    off on the letter of credit terminating?

11                MR. REED: Just a moment, Judge.

12                JUDGE WOODRUFF: Sure.

13                MR. REED: I think if claims -- if there aren't  
14    any claims outstanding, then I think that there -- there  
15    would be no Director or Commission action for the letter  
16    of credit to terminate.

17                JUDGE WOODRUFF: All right. Mr. Harrison, do  
18    you agree with that?

19                MR. HARRISON: Yes.

20                JUDGE WOODRUFF: All right. But claims would be  
21    -- the Director would be aware of the claims before the  
22    five years would run out, so --

23                MR. REED: It's -- it's -- and sometimes, you  
24    know, this -- the agreement becomes complicated at times.  
25    We read it and reread it. But I -- I just looked to the

1 language that -- that Mr. Harrison pointed to earlier that  
2 says that after the expiration of five years and when all  
3 claims made during the five years are paid or finally  
4 resolved to the Director's reasonable satisfaction. So I  
5 think if there's no claim outstanding that was made during  
6 the five-year period of time, then there's nothing the  
7 Director can do about termination of the letter of credit.

8           However, if -- if there was a claim made during  
9 the five years, it has to be resolved in some fashion or  
10 the Director can -- can reasonably withhold any consent to  
11 terminate.

12           JUDGE WOODRUFF: Okay.

13           MR. REED: So, you know, what I anticipate is  
14 that, of course, the Commission would enter an order to  
15 that effect. So we're out there five years, it's beyond  
16 the two years of probation. So the only thing that we can  
17 do is look to the Circuit Court to enforce this provision  
18 under 386.360. So that's what I -- that's how I  
19 anticipate that would be enforced as well.

20           JUDGE WOODRUFF: Okay. Well, that's all the  
21 questions I had from Commissioners. Is there anything  
22 else that either of you want to add?

23           MR. HARRISON: No, sir. Not me.

24           MR. REED: No.

25           JUDGE WOODRUFF: All right. With that, then,

1    this on-the-record presentation is adjourned.  Thank you.

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## 1 REPORTER'S CERTIFICATE

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3 STATE OF MISSOURI )  
 )ss.  
4 COUNTY OF OSAGE )

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6 I, Monnie S. VanZant, Certified Shorthand Reporter,  
7 Certified Court Reporter #0538, and Registered  
8 Professional Reporter, and Notary Public, within and for  
9 the State of Missouri, do hereby certify that I was  
10 personally present at the proceedings as set forth in the  
11 caption sheet hereof; that I then and there took down in  
12 stenotype the proceedings had at said time and was  
13 thereafter transcribed by me, and is fully and accurately  
14 set forth in the preceding pages.

15

16 IN WITNESS WHEREOF, I have hereunto set my hand and  
17 seal on June 24, 2008.

18

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21 \_\_\_\_\_  
Monnie S. VanZant, CSR, CCR #0539

22 Registered Professional Reporter

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