

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 29th day of
April, 2009.

| | | |
|--|---|--|
| Director of the Manufactured Housing and |) | |
| Modular Units Program of the Missouri |) | |
| Public Service Commission, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | |
| |) | |
| |) | |
| Lou Theiss, an individual, |) | |
| |) | |
| Respondent. |) | |

File No. MC-2009-0335

ORDER GRANTING DEFAULT

Issue Date: April 29, 2009

Effective Date: May 6, 2009

Syllabus: This order finds Lou Theiss (hereafter “Theiss”) in default, finds all of the allegations in Staff’s complaint deemed admitted by Theiss, and authorizes the Commission’s General Counsel to pursue a penalty action against Theiss in circuit court.

On March 13, 2009¹, the Director of the Manufactured Housing and Modular Units Program of the Missouri Public Service Commission (hereafter “Director”) filed a complaint against Theiss. The Director alleges that the Commission has jurisdiction over Theiss because he is a manufactured home installer as defined in Chapter 700 RSMo. Further, the Director alleges that Theiss violated Sections 700.674 and 700.683

¹ All calendar references are to 2009 unless otherwise noted.

RSMo 2000, as well as Commission Rule 4 CSR 240-125.040 by failing to install seven homes in accordance with the manufacturer's installation instructions, by engaging in repeated and gross negligence in his installation of those homes, and by failing to correct the deficiencies within 30 days of receipt of a correction notice from the Commission. Due to these actions by Theiss, the Director asks the Commission to authorize its General Counsel to pursue a penalty action in circuit court against Theiss.

On March 19, the Commission issued a Notice of Complaint that informed Theiss of the complaint, and directed Theiss to file an answer within 30 days of the date of the notice. The Notice of Complaint was delivered to Theiss at two different addresses by certified mail, return receipt requested, on March 27. Theiss's answer was due no later than April 20. Theiss did not file an answer.

Commission Rule 4 CSR 240-2.070(9) provides that if a respondent fails to timely respond to a complaint, the Commission may deem the complaint admitted, and may enter an order granting default.² Further, the Director filed a Motion for Default Judgment and for Authority to Seek Penalties on April 22. Due to Theiss' failure to respond to the complaint, the Commission finds that Theiss is in default and that all of the Director's allegations are admitted.

THE COMMISSION ORDERS THAT:

1. The Motion for Default Judgment and for Authority to Seek Penalties filed by the Director of the Manufactured Housing and Modular Units Program of the Missouri Public Service Commission is granted.

² That rule also allows the Commission to set aside a default order if the respondent files a motion to set aside the order within seven days of issue date of the order granting default, and if the Commission finds good cause for the respondent's failure to timely respond to the complaint.

2. Default is hereby entered against Lou Theiss, and all of the allegations in the complaint filed by the Director of the Manufactured Housing and Modular Units Program of the Missouri Public Service Commission are deemed admitted.

3. Lou Theiss violated Section 700.683.1 RSMo 2000 by failing to install the homes listed in the complaint filed by the Director of the Manufactured Housing and Modular Units Program of the Missouri Public Service Commission in accordance with the manufacturer's installation instructions.

4. Lou Theiss' actions and omissions of actions in relation to the installation of the homes listed in the complaint filed by the Director of the Manufactured Housing and Modular Units Program of the Missouri Public Service Commission constitutes repeated and gross negligence in violation of Section 700.674 RSMo 2000.

5. Lou Theiss failed to correct all applicable nonconformances within thirty days of receipt of a correction notice from the Commission, and in doing so, violated Commission Rule 4 CSR 240-125.040.

6. The General Counsel of the Commission is authorized to bring a penalty action against Lou Theiss in circuit court for the violations described in ordered paragraphs 3, 4, and 5.

7. This order shall become effective on May 6, 2009.
8. This case shall be closed on May 7, 2009.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Clayton, Chm., Murray, Davis,
Jarrett, and Gunn, CC., concur.

Pridgin, Senior Regulatory Law Judge