

3. Commission Rule 4 CSR 240-2.070(9) provides that “[t]he respondent shall file an answer to the complaint within the time provided. All grounds of defense, both of law and of fact, shall be raised in the answer. If the respondent has no information or belief upon the subject sufficient to enable the respondent to answer an allegation of the complaint, the respondent may so state in the answer and assert a denial upon that ground.”

4. Commission Rule 4 CSR 240-2.070(10) states that “[i]f the respondent in a complaint case fails to file a timely answer, the complainant’s averments may be deemed admitted and an order granting default entered. The respondent has seven (7) days from the issue date of the order granting default to file a motion to set aside the order of default and extend the filing date of the answer. The commission may grant the motion to set aside the order of default and grant the respondent additional time to answer if it finds good cause.”

5. As of the date of the filing of this motion, the respondent Thomas Smith has failed to file an answer or to request mediation in this matter.

WHEREFORE, the Manager moves that pursuant to 4 CSR 240-2.070(9) and (10) the Commission deem admitted the averments originally raised in the Manager’s *Complaint* and specifically find:

1. That Thomas Smith violated Section 700.683.1 by failing to install the Kaemmerer home in accordance with the manufacturer’s installation instructions.

2. That the actions and/or omissions of Thomas Smith related to the installation of the aforementioned homes constitutes “repeated” and/or “gross negligence” in violation of Section 700.674.

3. That Thomas Smith failed to “[correct] all applicable nonconformances within thirty (30) days of receipt of a correction notice from the commission,” in violation of Commission Rule 4 CSR 240-125.040.

4. That the Commission immediately suspend Thomas Smith’s license pursuant to Section 700.677.2, RSMo, for thirty (30) days.

The Manager further prays that the Commission authorize the General Counsel to proceed to circuit court to seek penalties against Thomas Smith for these violations of Chapter 700 and the Commission’s rules and for such other relief as the Commission deem just and proper.

Respectfully submitted,

/s/ Mark Johnson

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all parties this 4th day of April, 2018.

/s/ Mark Johnson