

**BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI**

Director of the Manufactured Housing)	
and Modular Units Program of the)	
Public Service Commission,)	
)	
Complainant,)	
)	
v.)	Case No. MC-2008-0071
)	
Amega Sales, Inc., d/b/a Quality Preowned)	
Homes, Columbia Discount Homes, Mark)	
Twain Mobile Home Sales, and Chateau Homes)	
)	
Respondent.)	

**RESPONDENT’S REPLY TO RESPONSE
TO MOTION TO DISMISS COUNTS II, IV AND VI**

COMES NOW Respondent, by and through its undersigned attorneys, and for its Reply to Response to Motion to Dismiss Counts II, IV and VI, does state as follows:

The Director claims that Respondent offers a tortured reading of *State ex rel. Mobile Homes Estates, Inc. v. Public Service Commission of Missouri*, 921 S.W.2d 5 (Mo. Ct. App. 1996) to arrive at the conclusion that the Commission may only revoke a registration for violations of sections 700.090 and 700.045. However, a review of that case will lead the Commission to conclude that Respondent’s analysis is taken directly from the Court’s opinion. “Section 700.100.3 is interpreted as it is written; it only allows the PSC to suspend a license for violation of two sections of Chapter 700: Section 700.090 and Section 700.045. While Section 700.115.1 gives a broad grant of authority to revoke a manufacturer’s license for *any* violation of Sections 700.010 to 700.115, the authority to seek such suspension is given to the Attorney General and it is to be sought in circuit court, not before the PSC.” *Mobile Homes Estates*, 921 S.W.2d at 12. Thus, Respondent’s reading of *Mobile Homes Estates* is not tortured in the least, but rather reflects the express holding of that case. There can be no conclusion other than that *Mobile Home Estates* is directly on point and is binding on the Director and the Commission in this case. The Director may not like the holding of *Mobile Home Estates*, but it is consistent with the statutory structure.

Additionally, Respondent notes that the Director’s Response admits that “the *Mobile Homes*

Estates case may prohibit the Commission from revoking a registration for a violation of section 700.015, it does not prevent the Commission from making a finding that 700.015 was violated and that referral to the Attorney General for prosecution is warranted.” This admission concerning the limited authority of the Director and the Commission adopts Respondent’s argument—the Commission cannot revoke Respondent’s registration for a violation of Section 700.015. At most, the Attorney General could file an action in circuit court to have such registration revoked under Section 700.115.

Mobile Home Estates is directly on point and prohibits the Director from taking the action that he is attempting to take in this case. The Respondent’s motion to dismiss should be granted for that reason and the other reasons advanced by Respondent.

The Director then argues that Respondent is arguing that Section 700.100.3(4) is unconstitutional. However, that is a mischaracterization of Respondent’s argument. Respondent is arguing that the Commission is without legal authority to determine what actions constitute a violation of Section 407.020. The statutes provide that the Commission may revoke a license under Section 700.100.3(4), but only after a registered dealer has been found to have violated Section 407.020 by a court of competent jurisdiction.

/s/ Thomas M. Harrison

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CERTIFICATE OF ELECTRONIC FILING

The undersigned hereby certifies that on February 4, 2008, he electronically filed the foregoing with the Missouri Public Service Commission using the EFIS system which sent notification of such filing to the following:

Steven C. Reed
Sarah L. Kliethermes
Missouri Public Service Commission
P.O. Box 360
Jefferson City MO 65102

The undersigned further certifies that he faxed and mailed the foregoing document to the above-referenced parties on February 4, 2008.

/s/ Thomas M. Harrison
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