

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

Director of the Manufactured Housing
and Modular Units Program
of the Missouri Public Service Commission

Complainant,

v.

Amega Sales, Inc.
d/b/a Quality Preowned Homes,
Columbia Discount Homes, Mark Twain
Mobile Home Sales, and Chateau Homes,
and Amega Sales, Inc.

Respondent.

Case No. MC-2008-0071

DIRECTOR'S RESPONSE

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission"), by and through counsel, and for its response in this matter respectfully states:

1. On July 31, 2013, Amega Sales, Inc. d/b/a/ Quality Preowned Homes, Columbia Discount Homes, Mark Twain Mobile Home Sales, and Chateau Homes, and Amega Sales, Inc. ("Amega") filed a *Motion to Terminate Letter of Credit and to Authorize Return of Letter of Credit* ("Motion") in this matter. On August 1, the Commission ordered the Director of the Manufactured Housing and Modular Units Program ("Director") to respond no later than August 30, 2013. The Commission also ordered any other party wishing to respond to do so by that date.

2. As explained below and in the attached *Recommendation*, the Director does not object to Amega's request to terminate the letter of credit. The Director's

Recommendation is attached hereto as Appendix A, and incorporated herein by reference.

3. This matter originated with a complaint filed by the Director on September 7, 2007. The Director's complaint was resolved with a Stipulation and Agreement, which the Commission approved in its *Order Approving Stipulation and Agreement, Revoking Registrations, Suspending Execution of Revocation, and Granting Probation on Certain Conditions* ("Order"). The Order took effect July 11, 2008.

4. The Order included Order 3.e, which required Amega to establish a letter of credit with Regions Bank in the total amount of \$70,000. The letter of credit was to be used for the purpose of making repairs to homes sold by Amega that were damaged in transit, homes that did not comply with the manufactured home construction standards, or homes that had an imminent safety hazard or serious defect.

5. The Commission Order provided that the letter of credit shall remain in place for at least five (5) years from the Order's effective date of July 11, 2008.

6. The Order at 3.e further provides: "After the expiration of five (5) years and when all claims made during that five (5) years are paid or finally resolved to the Director's reasonable satisfaction, the letter of credit may be terminated."

7. In compliance with Order 3.e, an Irrevocable Standby Letter of Credit was issued by Regions Bank, bearing an Issue Date of October 16, 2008, and an Expiration Date of October 16, 2013, at the request of Amega for the benefit of the Director. Amega's July 31 Motion seeks Commission approval to terminate this letter of credit.

8. The Director has reviewed the Stipulation and Agreement and the Commission's Order, and the Director states that no claims for repair were made

pursuant to Order 3.e during the five years after the effective date of the Order approving the Stipulation and Agreement. Since there were no claims made during the five-year period, the Director never needed to access the letter credit. The Director states he is satisfied that Amega has complied with the Commission's Order 3.e, and therefore the Director does not object to cancellation of the letter of credit.¹

9. Regions Bank personnel indicated to Staff counsel that the letter of credit may be cancelled by the Director sending the original letter of credit to Regions Bank, along with a letter indicating that the letter of credit is no longer needed.²

WHEREFORE, Staff respectfully recommends the Commission issue an order authorizing the Director to cancel the letter of credit by proceeding as described in Paragraph 9 above.

Respectfully Submitted,

**STAFF OF THE MISSOURI
PUBLIC SERVICE COMMISSION**

/s/ John D. Borgmeyer

John D. Borgmeyer
Deputy Legal Counsel
Missouri Bar No. 61992

Attorney for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102
Telephone: (573) 751-5472
Fax: (573) 751-9285
Email: john.borgmeyer@psc.mo.gov

¹ See § 400.5-106(b) RSMo: "After a letter of credit is issued, rights and obligations of a beneficiary, applicant, confirmer and issuer are not affected by an amendment or cancellation to which that person has not consented except to the extent the letter of credit provides that it is revocable or that the issuer may amend or cancel the letter of credit without that consent."

² Amega's Motion requested a Commission order directing that "the original letter of credit be returned to Respondent and permitting Respondent to cancel it." Staff counsel discussed Regions' recommended procedure with Amega counsel, and Amega counsel agreed that the Director should proceed as instructed by Regions Bank if so authorized by the Commission.

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were served electronically to all counsel of record this 30th day of August, 2013.

/s/ John D. Borgmeyer

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
File No. MC-2008-0071
Amega Sales, Inc., d/b/a Quality Preowned Homes, Columbia Discount Homes, Mark Twain Mobile Home Sales, Chateau Homes, and Amega Sales, Inc.

FROM: Blake Eastwood, Director of the Manufactured Housing and Modular Units Program of the Missouri Public Service Commission.

DATE: /s/ Natelle Dietrich 08/28/2013 /s/ John D Borgmeyer 08/28/2013
Director-Tariff, Safety, Economic Staff Counsel's Office / Date
and Engineering Analysis /Date

SUBJECT: Staff's Analysis of and Recommendation Concerning Respondent's Motion to Terminate Line of Credit.

DATE: August 28, 2013

Recommendation

The Director of the Manufactured Housing and Modular Units Program ("Director") recommends the Commission approve the request filed on July 31, 2013, by Amega Sales, Inc., d/b/a Quality Preowned Homes, Columbia Discount Homes, Mark Twain Mobile Home Sales, Chateau Homes, and Amega Sales, Inc. ("Amega Sales, Inc.") in Respondent's Motion to Terminate Letter of Credit and to Authorize Return Letter of Credit ("Motion") because five years has passed and no claims have been made against the letter of credit.

Discussion

On July 1, 2008, the Commission approved a Stipulation and Agreement that resolved the complaint brought by the Director against Amega Sales, Inc. One provision of that Stipulation and Agreement required Amega Sales, Inc. and its owner to establish an irrevocable letter of credit in the amount of \$70,000 to be used to complete any necessary repairs to homes sold by Amega Sales, Inc. that were damaged in transit. The Stipulation and Agreement provided that the letter of credit could be terminated after the passage of five years and the payment of any claims made against the letter of credit during those five years.

On July 31, 2013, Amega Sales, Inc. filed a Motion asking the Commission to terminate the letter of credit because five years have now passed and no claims have been

made against the letter of credit. The Director verified that, as stated in the Motion, at no time did the Director give Amega Sales, Inc. notice of any claims for repair under Section 3(e), and no draws were made on the letter of credit.

In addition, the Manufactured Housing and Modular Units Program Staff reviewed case files directly associated with Amega Sales, Inc. and its subsidiaries. Upon review it was concluded that none of the open complaints concerning purchases from Amega Sales, Inc., and its subsidiaries were linked to dealer-specific issues. Therefore, the Director is satisfied that the letter of credit may be terminated.

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Respondent.

Case No. MC-2008-0071

AFFIDAVIT OF BLAKE EASTWOOD

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

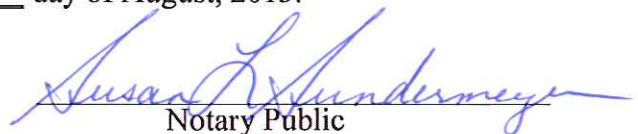
Blake Eastwood, of lawful age, on oath states: that he participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was provided to him; that he has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true to the best of his knowledge and belief.



Blake Eastwood

Subscribed and sworn to before me this 28th day of August, 2013.

SUSAN L. SUNDERMEYER
Notary Public - Notary Seal
State of Missouri
Commissioned for Callaway County
My Commission Expires: October 03, 2014
Commission Number: 10942086


Notary Public