

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

The Director of the Manufactured Homes
and Modular Units Program of the
Missouri Public Service Commission,

Complainant,

v.

Michael Goodwin

Respondent.

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Case No. MC-2018-0236

MOTION FOR SUMMARY DETERMINATION

COMES NOW Manager of the Manufactured Housing and Modular Units Program
(Manager or Staff), by and through counsel, and for this *Motion for Summary
Determination*, states as follows:

1. Manager filed his Complaint on February 28, 2018, alleging that
Respondent Michael Goodwin (Mr. Goodwin or Goodwin) improperly installed
thirteen (13) manufactured homes, and, despite notice and ample opportunity to
correct the defects, Mr. Goodwin failed to do so in violation of Missouri statutes and
Commission rules.

2. Commission Rule 4 CSR 240-2.177(1) provides:

(A) Except in a case seeking a rate increase or which is subject to an
operation of law date, any party may by motion, with or without supporting
affidavits, seek disposition of all or any part of a case by summary
determination at any time after the filing of a responsive pleading, if there is
a respondent, or at any time after the close of the intervention period.
However, a motion for summary determination shall not be filed less than
sixty (60) days prior to the hearing except by leave of the commission.

(B) Motions for summary determination shall state with particularity in
separately numbered paragraphs each material fact as to which the movant
claims there is no genuine issue, with specific references to the pleadings,
testimony, discovery, or affidavits that demonstrate the lack of a genuine

issue as to such facts. Each motion for summary determination shall have attached thereto a separate legal memorandum explaining why summary determination should be granted and testimony, discovery or affidavits not previously filed that are relied on in the motion. The movant shall serve the motion for summary determination upon all other parties not later than the date upon which the motion is filed with the commission.

(E) The commission may grant the motion for summary determination if the pleadings, testimony, discovery, affidavits, and memoranda on file show that there is no genuine issue as to any material fact, that any party is entitled to relief as a matter of law as to all or any part of the case, and the commission determines that it is in the public interest. An order granting summary determination shall include findings of fact and conclusions of law.

3. Respondent Michael Goodwin, through his attorney Andrew Westerfeld, filed his Answer on April 2, 2018; this Motion is, therefore, filed after Respondent has filed a responsive pleading as required by Rule 4 CSR 240-2.117(1)(A).

Undisputed Material Facts

4. There is no genuine issue as to the material facts set out in Paragraphs 5 through 16, below.

5. Respondent Goodwin was a Commission licensed manufactured home installer at the time of all alleged events in the Complaint.¹

6. On or about May 17, 2017, May 19, 2017, June 12, 2017, July 31, 2017, August 2, 2017, August 26, 2017, August 28, 2017, September 20, 2017, and October 2, 2017, Goodwin improperly installed manufactured homes in Moscow Mills, Missouri.²

7. Improper installation of the homes included: incorrect site preparation due to improper grounds slope, incorrect slope on a section of sewer line, incorrect anchors, incorrect footings/piers, incorrect skirting, incorrect installation of a patched bottom board,

¹ Stipulation and Agreement, Stipulation of Facts, ¶ 1.

² Stipulation and Agreement, Stipulation of Facts, ¶ 2.

incorrect water service due to not being protected from freeze, and incorrect latching on a front door.³

8. On June 21, 2017, July 27, 2017, and October 11, 2017, Manager notified Goodwin by letter(s) indicating that the homes had not been installed according to the manufacturer's instructions and further notifying Goodwin that he had thirty (30) days in which to correct the deficiencies.⁴

9. Manager and Goodwin entered into a Stipulation and Agreement which was approved by the Commission on or about September 27, 2018.⁵

10. The effective date of the order was October 27, 2018.⁶

11. The Stipulation and Agreement stated Mr. Goodwin was to make payment to the Public School Fund as follows:⁷

Payment to Public School Fund: Goodwin agrees to pay to the Public School Fund a total of Two Thousand Five Hundred Dollars (\$2,500.00). Payments may be made in monthly installments, but payment of the total amount of \$2,500.00 ("Total Amount") shall occur within one hundred and twenty (120) days from the date on which the Commission approves this Agreement. Checks for payment shall be made payable to the Director of Revenue and mailed to:

Missouri Public Service Commission
Attn: Helen Davis, Budget and Fiscal Services
P.O. Box 360
Jefferson City, MO 65102

Once payment of the Total Amount has been made to the Public School Fund, Goodwin shall provide to Manager proof of said payment of the Total Amount.

³ Stipulation and Agreement, Stipulation of Facts, ¶ 3.

⁴ Stipulation and Agreement, Stipulation of Facts, ¶ 4.

⁵ EFIS Item 19.

⁶ *Id.*

⁷ Stipulation and Agreement, The Parties' Agreement, ¶ 4.

12. Mr. Goodwin did not make the payment to the Public School Fund.⁸
13. Manager has not received from Mr. Goodwin proof of payment.⁹
14. Manager filed a Motion for Penalties on March 5, 2019.¹⁰
15. On March 11, 2019, the Commission ordered Mr. Goodwin to respond to the Motion for Penalties no later than March 18, 2019.¹¹
16. Mr. Goodwin did not respond to the March 11, 2019, Commission order.¹²

WHEREFORE, Manager respectfully requests the Commission grant summary determination of its Motion for Penalties and enter its order finding that (1) Mr. Goodwin violated the Stipulation and Agreement, (2) authorizing its General Counsel to seek penalties in the appropriate circuit court, and (3) granting such other and further relief as the Commission deems just.

Respectfully submitted,

/s/ Alexandra L. Klaus

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⁸ Email from Helen Davis to Justin Smith, February 26, 2019 ("We have not received the \$2,500 payment from Mr. Goodwin in Case No. MC-2018-0236."); *see also* Affidavit of Helen Davis.

⁹ *See* Affidavit of Justin Smith.

¹⁰ EFIS Item 22.

¹¹ EFIS Item 23.

¹² EFIS Items 22-24.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all parties and/or counsel of record on this 26th day of March, 2019.

/s/ Alexandra L. Klaus