

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

SEP 28 2004

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

Complainant,

v.

America's Home Brokers, Inc.,

Respondent.

Missouri Public
Service Commission

Case No. MC-2005-0028

**MOTION TO SET ASIDE DEFAULT ORDER AND REQUEST FOR ADDITIONAL TIME
TO FILE ANSWER**

Comes now Respondent, by and through counsel, and hereby requests the
Commission to set aside the Default Order against Respondent dated September 21, 2004,
and as grounds therefore pursuant to 4 CSR 240-2.070(9) states as follows:

1. On July 28th, 2004, the Commission issued a Notice and Complaint to Respondent.
2. On September 7th, 2004, the Respondent, through counsel, filed a request for mediation as well as a request to extend the time in which to file an answer until following mediation.
3. On September 21st, 2004, the Commission issued a default order against Respondent as Respondent did not respond to the Notice and Complaint within 30 days from July 28th.
4. 4 CSR 240-2.070(9) allows the Commission to set aside the default order if it finds good cause.

5. Respondent states there is good cause in this instance as to the best of his belief, he did not receive a Notice from the Commission which would indicate the existence of a Complaint and the necessity to respond within 30 days. Respondent does not recall receiving certified mail that included the Complaint and a Notice from the Commission.
6. Respondent did receive an unsigned complaint from Ms. Mary Weston, Assistant General Counsel in late August and shortly thereafter Respondent hired counsel.
7. Counsel promptly contacted Ms. Weston to discuss the matter and Ms. Weston informed counsel that the Complaint was originally sent in late July but that she would not object to a 30 day extension in which to file an answer but also indicated that mediation would be an acceptable way to proceed with this matter.
8. The Respondent, through counsel, then promptly filed a request for mediation and request to extend the time in which to file an Answer until following the completion of mediation.
9. Respondent states that these factors present in this instance as good cause to set aside the default order.
10. Respondent still desires in good faith to amicably resolve any outstanding legal matters and thus has hired counsel to assist him with the process and assist him with mediation.
11. According to the Commission's calculation, Respondent did not file an answer or request for mediation in a timely manner. Respondent did, however, file the request for mediation and request to extend the time in which to file an answer only shortly following the Commission's calculated

deadline. The Respondent did not ignore this matter and understood his responsibility to engage in the process – he simply does not recall receiving the Notice informing him of the 30 day deadline to respond and once he received the paperwork from Ms. Weston he promptly retained counsel.

WHEREFORE, for reasons stated above the Respondent puts forth that there is good cause to set aside the Default Order and as such the Respondent respectfully requests the Commission to set aside the Default Order, order the parties to mediation, and extend the Respondent's time in which to file an answer until following the completion of mediation.

Respectfully Submitted,



Alan P. Walters, #33444
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CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the foregoing was delivered to the following this 27th day of September, 2004 to: Ms. Mary E. Weston, Assistant General Counsel, P.O. Box 360, Jefferson City, MO 65102.


