

**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,)	<u>Case No. MC-2009-0335</u>
)	
v.)	
)	
Lou Theiss, an individual,)	
)	
Respondent.)	

**MOTION FOR DEFAULT JUDGMENT
AND FOR AUTHORITY TO SEEK PENALTIES**

COMES NOW the Director of the Manufactured Housing and Modular Units Program (the Director) of the Missouri Public Service Commission (the Commission) and pursuant to 4 CSR 240-2.070(9) moves for a default judgment in Case No. MC-2009-0335 and for the authority to seek penalties in circuit court hereafter.

1. On March 13, 2009, the Director filed a complaint against Lou Theiss, an individual, in which complaint the Director asserts numerous allegations related to the installation of seven (7) manufactured homes.

2. On March 19, 2009, the Commission issued its *Notice of Complaint*, advising the respondent that pursuant to Commission Rule 4 CSR 240-2.070 that the respondent shall have thirty (30) days from the date of the notice to file an answer in this matter.

3. Commission Rule 4 CSR 240-2.070(8) 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(9) further 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 Lou Theiss has failed to file an answer in this matter.

WHEREFORE, the Director moves that pursuant to 4 CSR 240-2.070(9) the Commission deem admitted the following averments, originally raised in the Director’s *Complaint*:

1. That Lou Theiss violated Section 700.683.1 by failing to install the following homes in accordance with the manufacturer’s installation instructions:

- a. The Mills Home (Count I)
- b. The Van Morelan Home (Count II)
- c. The Wolff Home (Count III)
- d. The Albert Home (Count IV)
- e. The Cook Home (Count V)
- f. The Hampton Home (Count VI)
- g. The Dement Home (Count VII)

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

3. That Lou Theiss 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.

The Director further prays that the Commission authorize the General Counsel to proceed to circuit court to seek penalties against Lou Theiss for these violations of Chapter 700 and the Commission’s rules.

Respectfully submitted,

/s/ Eric Dearmont
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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 22nd day of April, 2009.

/s/ Eric Dearmont