

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
March 9, 2000**

**CASE NO: MC-2000-181**

**Office of the Public Counsel**  
P.O. Box 7800  
Jefferson City, MO 65102

**General Counsel**  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**William Pitts**  
Pitts Mobile Homes  
426 NW 1021st Rd.  
Centerview, MO 64019-9143

**Enclosed find certified copy of an ORDER in the above-numbered case(s).**

**Sincerely,**

A handwritten signature in black ink, appearing to read "Dale Hardy Roberts". The signature is written in a cursive, flowing style.

**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 9th  
day of March, 2000.

Director of the Department of  
Manufactured Homes, and Modular  
Units of the Public Service  
Commission,

Complainant,

v.

Pitts Mobile Homes,

Respondent.

Case No. MC-2000-181

**ORDER REJECTING REQUEST FOR  
RECONSIDERATION AND REDUCTION OF PENALTY**

The Director of the Department of Manufactured Homes and Modular Units of the Public Service Commission (Director) filed a formal complaint with the Missouri Public Service Commission on August 24, 1999, against Pitts Mobile Homes (Pitts). The Director alleged, in seven counts, that Pitts failed to properly comply with the setup procedures for a manufactured home and failed to correct the setup deficiencies within a reasonable amount of time as specified by the Director, as required by Section 700.100.3(6), RSMo 1994.

On August 31, the Commission issued a Notice of Complaint to William Pitts, d/b/a Pitts Mobile Homes requiring Pitts to answer within 30 days from the date of the notice (September 30). The Commission's official

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files did not indicate that the August 31st notice was sent by certified mail. Therefore, a second Notice of Complaint was issued on October 7, requiring Pitts to answer within 30 days from the date of the notice (November 7). The Commission's official file indicated that the notice was delivered by certified mail on November 4. Pitts did not file an answer. On November 19, the Director filed a Motion for Default. Pitts did not respond to the Director's motion.

On December 7, the Commission issued an Order of Default that found Pitts to be in default and pursuant to 4 CSR 240-2.070(9) found the allegations of the complaint to be deemed admitted by Pitts. The Commission granted the relief sought by the Director in his complaint. The Certificate of Dealer Registration No. 890001, issued to Pitts Mobile Homes on January 13, 1999, was suspended for 14 days on each of the seven counts set forth in the Director's Complaint. The certificate was therefore suspended for a total of 98 days. In addition, the Office of General Counsel was authorized to seek civil penalties from Pitts pursuant to Section 700.115.2, RSMo 1994.

The Order of Default indicated that it would become effective on December 17, 1999. Pitts did not respond to the Order of Default prior to its effective date. On February 7, 2000, William L. Pitts, d/b/a Pitts Mobile Homes, through his attorney, filed a Request for Reconsideration and Reduction of Penalty.

In his request, Pitts argues that the seven counts listed in the Director's complaint are minor deficiencies that did not render any of the mobile homes uninhabitable. Pitts also indicates that all of the

deficiencies, except one that is the subject of separate litigation with the homeowner, have been corrected. Pitts argues that the Commission's suspension of his certificate of dealer registration for 98 days results in a penalty that is far greater than the crime it is intended to correct and will result in an undue hardship.

On February 16, the Director filed a response to Pitts' request. The Director recognized that Pitts has in fact performed the required repair work on the homes that were the basis for the complaint. For that reason, the Director indicates that he will not seek civil monetary penalties against Pitts and asks that his authority to do so be withdrawn. Nevertheless, the Director suggests that the 98 day suspension of Pitts' certificate of dealer registration is appropriate not only because of Pitts' failure to properly set-up the homes that were sold, but also because Pitts' failure to respond to the complaint showed a disregard for the Director's authority as well as for the authority of the Commission.

Section 386.500.1, RSMO (1994) provides that the Commission shall grant an application for rehearing if "in its judgment sufficient reason therefor be made to appear." Section 386.500.2 further provides that no party has a right to appeal an order of the Commission in any court unless it has applied for rehearing prior to the effective date of the order. In addition, 4 CSR 240-2.160(1) provides that "applications for rehearing may be filed prior to the effective date of the order." That same regulation provides that "motions for reconsideration of procedural and interlocutory orders shall be filed within ten (10) days of the date

the order is issued." The order that Pitts is asking the Commission to reconsider was issued on December 7 and became effective on December 17, 1999. Pitts filed his request for rehearing on February 7, 2000. Therefore, his request was filed some six weeks late. Pitts' request for reconsideration will be rejected as untimely filed.

In addition, even if the Commission were to consider Pitts' request for reconsideration on its merits, it would be rejected. In his complaint, the Director alleged seven separate occasions in which Pitts failed to properly comply with setup procedures for a manufactured home and failed to correct the setup deficiencies within a reasonable time as specified by the Director. The Director notified Pitts of each of these deficiencies between July, 1998 and June, 1999 and ordered that they be corrected within thirty days. Yet Pitts' request for reconsideration indicates that only three of the deficiencies had been corrected by September of 1999 and that three of the remaining four deficiencies had been completed by February, 2000. Pitts also neglected to promptly respond to the Director's complaint when it was filed before the Commission. The Commission directed Pitts to respond to the Director's Complaint but he chose not to do so. Pitts was given an opportunity to request rehearing of the default order in a timely fashion. He did not do so.

The Director's Response to Pitts' request for rehearing indicates that the Director has chosen not to seek civil monetary penalties against Pitts. The Director asks that its authorization to seek civil penalties be withdrawn. The Order of Default merely authorized the Commission's

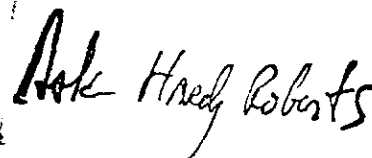
General Counsel to seek civil penalties against Pitts. It did not require that the Director take any action to seek those penalties. If the Director chooses not to further pursue such penalties, he is not in violation of the Commission's order. The Default Order need not be altered to withdraw the authorization to seek civil penalties.

Pitts has, in the judgment of the Commission, failed to establish sufficient reason to grant his Request for Reconsideration and Reduction of Penalty.

**IT IS THEREFORE ORDERED:**

1. That the Request for Reconsideration and Reduction of Penalty filed by William L. Pitts d/b/a Pitts Mobile Homes is rejected.
2. That this order shall become effective on March 9, 2000.

**BY THE COMMISSION**



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

( S E A L )

Lumpe, Ch., Murray, and Drainer, CC., concur  
Crumpton and Schemenauer, CC., absent

Woodruff, Regulatory Law Judge

Modruft Joyce

MC-2000-18/  
CASE NO.

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Ch

**Murray, Commissioner**

**Schemenauer, Commissioner**

Drainet, Vice-Chair

3-9  
Agenda Date

**Action taken:**

**Must Vote Not Later Than**

Commissioner  
Commissioner  
Chair

\$5.00  
\$4.50

Pitt's to respond order  
he has compared whether  
OAS says he has

order = the  
can.

12/17/94 on the order  
date of 85

I spoke him at  
with him on 12/23  
about 11:00 AM

