

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 17<sup>th</sup> day of  
April, 2019.

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

Complainant, )

v. )

Michael Goodwin, )

Respondent )

**File No. MC-2018-0236**

**ORDER GRANTING STAFF'S MOTION FOR SUMMARY DETERMINATION**

Issue Date: April 17, 2019

Effective Date: May 17, 2019

**Procedural History**

On June 11, 2018, the Manager of the Manufactured Housing and Modular Units Program ("Manager") filed a complaint against Michael Goodwin, a licensed manufactured home installer, alleging that Mr. Goodwin improperly installed thirteen (13) manufactured homes. The complaint was resolved by a *Stipulation and Agreement* signed by the parties and approved by the Commission on September 27, 2018. Under the terms of the *Stipulation and Agreement* Mr. Goodwin was to make payment to the public school fund of \$2,500 no later than February 25, 2019, and provide the Manager proof the payment was made.

On March 5, 2019, the Commission's staff filed a motion for penalties, requesting the Commission grant authority to its General Counsel to seek penalties in circuit court

against Mr. Goodwin based upon the nonpayment to the school fund in violation of the approved *Stipulation and Agreement*. The Commission ordered Mr. Goodwin to respond to the motion no later than March 18, 2019. No response was received. The Commission set the case for an evidentiary hearing on April 19, 2019, to determine whether Mr. Goodwin violated of the terms of the *Stipulation and Agreement*.

On March 26, the Commission's Staff filed its *Motion for Leave to File Motion for Summary Determination, Motion for Summary Determination, and Manager's Suggestions in Support of Motion for Summary Determination*. The Commission granted leave to file the motion for summary determination and gave Mr. Goodwin until April 11, 2019, to respond to the summary determination motion. No response was received.

### **Findings of Fact**

The following undisputed facts are taken from the *Complaint*, the *Stipulation and Agreement*, the *Motion for Leave to File Motion for Summary Determination*, the *Motion for Summary Determination*, and the *Manager's Suggestions in Support of Motion for Summary Determination*.

1. Complainant is the Manager of the Manufactured Housing and Modular Units Program of the Missouri Public Service Commission.
2. Respondent, Mr. Goodwin, is a manufactured home "installer," as defined in Section 700.010(5), RSMo, and is subject to the jurisdiction of the Commission under Sections 700.650 to 700.692, RSMo.
3. The Commission's Staff filed Staff's *Motion Regarding Stipulation and Agreement*, along with the *Stipulation and Agreement* on September 20, 2018, signed by

the Manager, Mr. Goodwin, Staff attorney Alexandra Klaus, and Respondent's attorney Andrew Westerfeld.

4. The Commission approved the *Stipulation and Agreement* on September 27, 2018.

5. The Stipulation and Agreement contains a Stipulation of Facts in which Mr. Goodwin agrees that he was a licensed manufactured home installer who improperly installed thirteen (13) homes.

6. Paragraph 2 of the *Stipulation and Agreement's* "Miscellaneous Provisions" section states:

Upon Manager's reasonable belief that a violation of any of the above conditions has occurred, Manager may file a motion with the Commission seeking disciplinary action (for example, suspension or revocation of installation license) and penalties as Manager deems appropriate. The Commission may thereupon set the matter for hearing to determine whether a violation of the terms of this Agreement has taken place and, if so, the Parties agree that the Commission may enter an order regarding discipline and penalties that the Commission deems just and proper.

7. Paragraph 4 of the *Stipulation and Agreement's* "The Parties' Agreement" section states:

**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 non-refundable 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. Check for payment shall be made payable to the Director of Revenue and mailed to:

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

Once payment of the Total Amount has been made to the Public School Fun **Goodwin shall provide to Manager proof of said payment of the Total Amount. [emphasis added]**

8. The *Motion for Leave to File Motion for Summary Determination* states in part: “Upon Manager’s reasonable belief, Mr. Goodwin has not made the payment described in Paragraph 3 above [Paragraph 4 of the Stipulation and Agreement]; Manager has not received from Mr. Goodwin proof of payment. An affidavit of the Manager accompanied the motion affirming that the Manager contributed to the motion and the information therein is correct.”

9. The Commission allowed Mr. Goodwin an opportunity to contest any of the information in *Motion for Penalties* or the *Motion for Summary Determination*, and Mr. Goodwin failed to respond.

### **Conclusions of Law**

A. Pursuant to 4 CSR 240-120.031(1), the Commission has delegated to the Manager its powers pertaining to manufactured homes and modular units under Chapter 700, RSMo, except the powers to revoke, deny, refuse to renew, or place on probation, a registration under § 700.090, RSMo, which are retained by the Commission.

B. Section 386.390.1, RSMo, authorizes the Commission to hear and decide complaints “setting forth any act or thing done or omitted to be done by any corporation, person or public utility in violation, or claimed to be in violation, of any provision of law subject to the commission's authority, of any rule promulgated by the commission, of any utility tariff, or of any order or decision of the commission...”

C. Commission Rule 4 CSR 240-2.117(1)(E) allows the Commission to grant a 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.”

D. Commission Rule 4 CSR 240-2.117(1)(B) states: “Motions for summary determination shall state with particularity in separately numbered paragraphs each material fact to which movant claims there is no genuine issue, with specific references to the pleadings, testimony, discovery, or affidavits that demonstrate the lack of issue as to such facts.”

E. Section 386.600 RSMo, authorizes the Commission to seek penalties in the circuit court and states in part: “An action to recover a penalty or a forfeiture under this chapter or to enforce the powers of the commission under this or any other law may be brought in any circuit court in this state in the name of the state of Missouri and shall be commenced and prosecuted to final judgment by the general counsel to the commission.”

### **Decision**

The Commission may grant a motion for summary determination where there are no issues as to any material fact and a party is entitled to relief as a matter of law. There are no contested material facts regarding Mr. Goodwin's obligation to pay \$2,500 to the school fund and provide the Manager proof of payment. The failure to provide proof of payment to the manager is a breach of the terms of the *Stipulation and Agreement*. The Commission issued an order approving the *Stipulation and Agreement*; accordingly, Mr. Goodwin has violated a Commission order. Therefore, the Commission will grant the

motion for summary determination. The scheduled evidentiary hearing will be cancelled by separate order.

**THE COMMISSION ORDERS THAT:**

1. The Motion for Summary Determination is granted.
2. The Commission authorizes its General Counsel to seek penalties in the appropriate circuit court.
3. This order shall be effective on May 17, 2019.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Silvey, Chm., Kenney, Hall, Rupp, and  
Coleman, CC., concur.

Clark, Regulatory Law Judge

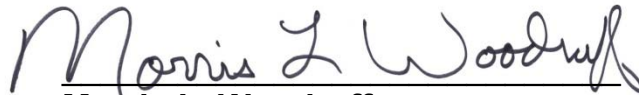
**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

**I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.**

**WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 17<sup>th</sup> day of April 2019.**



  
**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**April 17, 2019**

**File/Case No. MC-2018-0236**

**Missouri Public Service  
Commission**

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Commission**

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**Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).**

**Sincerely,**



**Morris L. Woodruff  
Secretary**

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