

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held by telephone and internet audio conference on the 21st day of October, 2020.

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

Complainant,

v.

Charles W. Brune and Anna G. Brune
d/b/a Brune Mobile Sales,

Respondents.

File No. MC-2020-0135

ORDER APPROVING STIPULATION AND AGREEMENT

Issue Date: October 21, 2020

Effective Date: November 20, 2020

The Manager of the Manufactured Housing and Modular Units Program of the Public Service Commission (Manager) filed a complaint against Charles W. Brune and Anna G. Brune d/b/a Brune Mobile Sales (Brune), a registered dealer of manufactured housing units. The complaint alleged that with respect to the sale and installation of manufactured homes, Brune failed to arrange for proper initial setup in violation of Section 700.100.3(6), RSMo, and Commission Rule 20 CSR 4240-120.065(1)(A); failed to correct defects within 90 days in violation of Section 700.045(5), RSMo; engaged in the installation of homes without a license in violation of Section 700.656.1, RSMo; failed to employ or subcontract with a licensed installer in violation of Section 700.656.3, RSMo; and failed to file monthly sales reports in violation of Section 700.096.1, RSMo. The

parties have reached a stipulation and agreement (agreement) for the resolution of the complaint. The parties have agreed customer information may be redacted from the agreement as confidential. The Redacted Stipulation and Agreement was filed on October 14, 2020.

After reviewing the agreement, the Commission finds and concludes that it is a reasonable resolution of the complaint and should be approved.

THE COMMISSION ORDERS THAT:

1. The stipulation and agreement filed on July 23, 2020, is approved. All parts redacted per the Redacted Stipulation and Agreement filed on October 14, 2020, shall be deemed confidential. The signatory parties are ordered to comply with its terms.
2. If the Manager of the Manufactured Housing and Modular Units Program of the Public Service Commission has not dismissed its complaint in compliance with the stipulation and agreement, they shall file a status report no later than May 19, 2021.
3. This order is effective on November 20, 2020.



BY THE COMMISSION

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

Morris L. Woodruff
Secretary

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

Graham, Regulatory Law Judge

3. On January 20, 2017 Respondents sold [REDACTED] a TRU manufactured home, with serial number [REDACTED]. Prior to the sale, Respondents obtained a written waiver of installation service from the [REDACTED]. Unlicensed installers then set up their home at [REDACTED], [REDACTED], Missouri, ZIP code [REDACTED].
4. On April 12, 2017 Respondents sold [REDACTED] a TRU manufactured home, with serial number [REDACTED]. Prior to the sale, Respondents obtained a written waiver of installation service from [REDACTED] and [REDACTED]. Unlicensed installers then set up their home at [REDACTED], [REDACTED], Missouri, ZIP code [REDACTED].
5. On June 19, 2017 Respondents sold [REDACTED] a Fairmont Homes, LLC manufactured home, with serial number [REDACTED]. Prior to the sale, Respondents obtained a written waiver of installation service from [REDACTED]. Unlicensed installers then set up their home at [REDACTED], [REDACTED], Missouri, ZIP code [REDACTED].
6. On August 27, 2017 Respondents sold [REDACTED] a Manufactured Housing Enterprises, Inc. manufactured home, with serial number [REDACTED]. Prior to the sale, Respondents obtained a written waiver of installation service from the [REDACTED]. Unlicensed installers then set up their home at [REDACTED], [REDACTED], Missouri, ZIP code [REDACTED].
7. On March 11, 2019 the Manager moved to open an investigatory docket (case no. MO-2019-0258) related to its concerns that the Brunes were using unlicensed installers to set up homes. The Manager filed its report on October 28, 2019 concluding that Respondents violated state laws and Commission rules by using waivers to circumvent their obligation to arrange proper initial setup of the above five homes, had installed a manufactured home without holding a valid installer's license, and did not use licensed installers to install the five above homes. Respondents dispute the findings of the Manager's report, including the finding that Respondents violated state laws and Commission rules by using waivers to circumvent their obligation to arrange proper initial setup.
8. On November 15, 2019 the Manager filed the *Complaint* against Respondents in this case alleging (1) violation of § 700.100.3(6), RSMo and 20 CSR 4240.120-065(1)(C) for failing to arrange for the proper initial setup of the five manufactured homes; (2) violation of § 700.045(5), RSMo for failing to correct code violations within 90 days after being ordered to do so by the Commission's authorized representative; (3) violation of § 700.656.1, RSMo for installing a home without holding a valid installer's license issued by the Commission pursuant to § 700.650, RSMo to § 700.680, RSMo; (4) violation of § 700.656.3, RSMo for hiring unlicensed individuals to install the five manufactured homes; and (5) violation of § 700.096.1, RSMo and 20 CSR 4240-120.130(1) for failing to file monthly sales

reports with the Commission. Respondents dispute the allegations of Manager's *Complaint* and by signing this stipulation do not concede any of the allegations.

9. In its February 21, 2020 *Order Adopting Procedural Schedule*, the Commission directed the Signatories to participate in a settlement conference on May 7, 2020. On May 7, 2020 the Commission granted the Signatories' motion to reschedule this conference for May 13, 2020.
10. The Signatories held their settlement conference on May 13, 2020. At this conference, the Signatories began discussion of settlement possibilities. As a result of these discussions, the Signatories desire to settle the outstanding issues of this case on terms that are satisfactory to the Commission.
11. To avoid the delay, uncertainty, and expense of protracted litigation of the above claims, the Signatories have reached a settlement of all outstanding issues in the *Complaint* pursuant to the terms and conditions listed below. This Stipulation and Agreement is neither an admission of any liability or fault by Respondents nor a concession by the Manager that the claims are not well-founded.

THE SIGNATORIES' AGREEMENT

As a result of a settlement conference held May 13, 2020 and further negotiations, the Signatories have reached the following agreement to resolve this case:

12. **Hiring of Licensed Civil Engineer**: Respondents shall investigate hiring a licensed civil engineer to inspect the foundations of the [REDACTED] and [REDACTED] homes.¹ If Respondents hire a licensed civil engineer to inspect the homes, the Manager will not pursue payment to the public school fund as allowed pursuant to § 386.600, RSMo. If Respondents hire a civil engineer who states in a stamped engineering report that the foundations of the [REDACTED] and [REDACTED] houses are sound, the Signatories shall take no further action regarding the foundations. If Respondents do not hire a licensed civil engineer or a licensed civil engineer states that the foundations are not sound, the Signatories shall further discuss responsibilities and repairs.
13. **Agreement on Repairs**: Observing appropriate health precautions, within thirty (30) days after the Commission approves this *Stipulation and Agreement*, the Signatories shall meet at the [REDACTED] and [REDACTED] homes to discuss installation deficiencies listed in the Manager's inspection reports, which are attached to the *Complaint* as Appendices D, F, H, J, and L. The Manager shall explain the deficiencies to Respondents, and the Signatories shall agree upon a written timeframe within which they shall be corrected. The Signatories agree this

¹ The [REDACTED] and [REDACTED] houses were foreclosed, and the original homeowners no longer own them. Staff made several unsuccessful attempts to communicate with the [REDACTED]. For these reasons the [REDACTED] [REDACTED] and [REDACTED] homes are not included in this agreement.

meeting shall not be accusatory or defensive, but an explanation of the deficiencies, expected repairs, and resolution.

14. **Correction of Deficiencies:** Respondents are committed to resolving all outstanding deficiencies in the [REDACTED] and [REDACTED] homes to be in compliance with state law. Respondents shall correct the deficiencies within the written timeframe described in Paragraph 13. Respondents shall use only licensed installers to correct the deficiencies. The Manager shall inspect the homes after Respondents have corrected the deficiencies. The Manager shall waive the first re-inspection fee per home but shall charge \$200 per each re-inspection per home thereafter. If Respondents do not correct these deficiencies within the timeframe described in Paragraph 13 and/or Respondents do not use licensed installers to correct the deficiencies and/or the deficiencies are not corrected to be in compliance with state law, the Manager may consider the non-correction a violation of this *Stipulation and Agreement*, seek penalties allowed by law against Respondents, and seek revocation of Respondents' registration.
15. **Payment to Public School Fund:** If Respondents do not hire a licensed civil engineer to inspect the [REDACTED] and [REDACTED] homes as provided in paragraph 12 above, Respondents shall remit a payment of \$2000 to the public school fund, pursuant to § 386.600, RSMo. This payment shall be made out to the Director of Revenue, State of Missouri and submitted to the Missouri Public Service Commission, Attn: Budget and Fiscal Services, P.O. Box 360, Jefferson City, MO 65102. The Commission shall forward the check to the appropriate agency for deposit in the public school fund. This payment shall be submitted to the Commission within ten (10) days of the Commission's approval of this *Stipulation and Agreement*.
16. **Payment of Past Due Re-Inspection Fees:** Respondents shall remit a payment of \$1800 to the Commission for past due re-inspection fees, pursuant to 20 CSR 4240-120.085(1)(C).² This payment shall be submitted to the Commission within ninety (90) days of the Commission's approval of this *Stipulation and Agreement*.
17. **Proper Initial Setup and Use of Licensed Installers:** The Brunos agree that for all future installations, they shall use licensed installers to arrange proper initial setup of new manufactured homes they sell.
18. **Prompt Correction of Code Violations:** The Brunos agree that they shall correct future code violations within 90 days after being ordered to do so by the Commission's authorized representative.
19. **Monthly Sales Reports :** The Brunos agree to file monthly sales reports, as required by § 700.096.1, RSMo and 20 CSR 4240-120.130(1).

² 20 CSR 4240-120.085(1)(C) allows the Manager to assess a \$200 fee per re-inspection for re-inspections after the first. There were 9 second and third inspections in this matter, so the re-inspection fees are \$1800.

20. **Property Locators**: The Brunos agree to file property locators, as required by 20 CSR 4240-120.065(2)(A).
21. **Dismissal of Complaint**: Upon correction of the deficiencies described in Paragraphs 12, 13, and 14 and payment of fees described in Paragraphs 15 and 16, the Manager agrees to dismiss the complaint in case no. MC-2020-0135. Despite any complaint dismissal, Respondents further agree that the provisions of Paragraphs 17, 18, 19, and 20 constitute and remain ongoing obligations.

MISCELLANEOUS PROVISIONS

22. Upon the Manager's reasonable belief that a violation of any of the above conditions has occurred, the Manager may file a motion with the Commission seeking disciplinary action (for example, suspension or revocation of dealer registration) and penalties as the 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 Signatories agree that the Commission may enter an order regarding discipline and penalties that the Commission deems just and proper.
23. This Agreement has resulted from extensive negotiations among the Signatories and the terms hereof are interdependent. If the Commission does not approve this Agreement unconditionally and without modification, then this Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof, except as expressly provided herein.
24. If the Commission does not unconditionally approve this Stipulation and Agreement without modification, and notwithstanding the provision herein that it shall become void, neither this *Stipulation and Agreement* nor any matters associated with its consideration by the Commission shall be considered or argued to be a waiver of the rights that any Signatory has for a decision in accordance with § 536.080, RSMo. 2000, or Article V, Section 18 of the Missouri Constitution, and the Signatories shall each retain all procedural and due process rights as fully as though this Stipulation and Agreement had not been presented for approval. If the Commission does not unconditionally approve this Stipulation and Agreement without modification, any suggestions, memoranda, testimony, or exhibits that have been offered or received in support of this *Stipulation and Agreement* shall become privileged as reflecting the substantive content of settlement discussions and shall not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.
25. In the event the Commission unconditionally accepts the terms of this *Stipulation and Agreement* without modification and Respondents satisfy the requirements of Paragraphs 12, 13, 14, 15, and 16 resulting in the dismissal of the complaint as outlined in Paragraph 21, the Signatories waive their respective rights: (1) to

present testimony, to cross-examine witnesses, to present oral argument and written briefs pursuant to § 536.080.1; (2) to the reading of the transcript by the Commission pursuant to § 536.080.2, (3) to seek rehearing pursuant to § 386.500, and; (4) to judicial review of the Commission's Report and Order in this matter pursuant to § 386.510. These waivers apply only to the issues that are resolved hereby, and specifically do not apply to any matters raised in any prior or subsequent Commission proceeding or any matters not explicitly addressed by this Stipulation and Agreement.

26. This *Stipulation and Agreement* was prepared by the Office of Staff Counsel. The Signatories acknowledge that no provision of this *Stipulation and Agreement* will be interpreted in favor of, or against, any of the Signatories hereto because any such Signatory or its counsel participated in the drafting thereof or because any such provision is inconsistent with any prior draft hereof or thereof. Each Signatory acknowledges such Signatory has participated in the negotiation of this *Stipulation and Agreement* and had an opportunity to participate in the drafting and preparation of this *Stipulation and Agreement*, and the Signatories represent and warrant that they have not been coerced into entering into this *Stipulation and Agreement*, nor has any person or entity exercised any pressure or undue influence on such Signatory to enter into this *Stipulation and Agreement*.
27. Each of the Signatories hereto further states and represents that he, she, or it has carefully read the foregoing *Stipulation and Agreement* and knows the contents thereof, and that he, she, or it has executed the same as his, her, or its own free act and deed.



Justin Smith
Manager, Manufactured Housing and
Modular Units Program for the Missouri
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APPROVED AS TO FORM:

/s/ Karen E. Bretz

Karen E. Bretz
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/s/ Thad M. Brady

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Fax: (573) 243-3946
Email: thad@semolawfirm.com
ATTORNEY FOR RESPONDENTS

3. On January 20, 2017 Respondents sold Allen and Lori Kasten a TRU manufactured home, with serial number SA4070123ALAB. Prior to the sale, Respondents obtained a written waiver of installation service from the Kastens. Unlicensed installers then set up their home at 944 Olive Road, Park Hills, Missouri, ZIP code 63601.
4. On April 12, 2017 Respondents sold Elizabeth Schemel and Debbie Fox a TRU manufactured home, with serial number SA4070126AL. Prior to the sale, Respondents obtained a written waiver of installation service from Schemel and Fox. Unlicensed installers then set up their home at 1205 N. Moulton, Perryville, Missouri, ZIP code 63775.
5. On June 19, 2017 Respondents sold James Armstrong a Fairmont Homes, LLC manufactured home, with serial number FMT430IN-11717AB. Prior to the sale, Respondents obtained a written waiver of installation service from Armstrong. Unlicensed installers then set up their home at 202 PCR 860, St. Mary, Missouri, ZIP code 63673.
6. On August 27, 2017 Respondents sold Aaron and Michelle Orf a Manufactured Housing Enterprises, Inc. manufactured home, with serial number MO40234-2. Prior to the sale, Respondents obtained a written waiver of installation service from the Orfs. Unlicensed installers then set up their home at 22 Bast Lane, Perryville, Missouri, ZIP code 63775.
7. On March 11, 2019 the Manager moved to open an investigatory docket (case no. MO-2019-0258) related to its concerns that the Brunes were using unlicensed installers to set up homes. The Manager filed its report on October 28, 2019 concluding that Respondents violated state laws and Commission rules by using waivers to circumvent their obligation to arrange proper initial setup of the above five homes, had installed a manufactured home without holding a valid installer's license, and did not use licensed installers to install the five above homes. Respondents dispute the findings of the Manager's report, including the finding that Respondents violated state laws and Commission rules by using waivers to circumvent their obligation to arrange proper initial setup.
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As a result of a settlement conference held May 13, 2020 and further negotiations, the Signatories have reached the following agreement to resolve this case:

12. **Hiring of Licensed Civil Engineer**: Respondents shall investigate hiring a licensed civil engineer to inspect the foundations of the Schemel/Fox and Thomas homes.¹ If Respondents hire a licensed civil engineer to inspect the homes, the Manager will not pursue payment to the public school fund as allowed pursuant to § 386.600, RSMo. If Respondents hire a civil engineer who states in a stamped engineering report that the foundations of the Schemel/Fox and Thomas houses are sound, the Signatories shall take no further action regarding the foundations. If Respondents do not hire a licensed civil engineer or a licensed civil engineer states that the foundations are not sound, the Signatories shall further discuss responsibilities and repairs.
13. **Agreement on Repairs**: Observing appropriate health precautions, within thirty (30) days after the Commission approves this *Stipulation and Agreement*, the Signatories shall meet at the Schemel/Fox and Thomas homes to discuss installation deficiencies listed in the Manager's inspection reports, which are attached to the *Complaint* as Appendices D, F, H, J, and L. The Manager shall explain the deficiencies to Respondents, and the Signatories shall agree upon a written timeframe within which they shall be corrected. The Signatories agree this

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meeting shall not be accusatory or defensive, but an explanation of the deficiencies, expected repairs, and resolution.

14. **Correction of Deficiencies:** Respondents are committed to resolving all outstanding deficiencies in the Schemel/Fox and Thomas homes to be in compliance with state law. Respondents shall correct the deficiencies within the written timeframe described in Paragraph 13. Respondents shall use only licensed installers to correct the deficiencies. The Manager shall inspect the homes after Respondents have corrected the deficiencies. The Manager shall waive the first re-inspection fee per home but shall charge \$200 per each re-inspection per home thereafter. If Respondents do not correct these deficiencies within the timeframe described in Paragraph 13 and/or Respondents do not use licensed installers to correct the deficiencies and/or the deficiencies are not corrected to be in compliance with state law, the Manager may consider the non-correction a violation of this *Stipulation and Agreement*, seek penalties allowed by law against Respondents, and seek revocation of Respondents' registration.
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17. **Proper Initial Setup and Use of Licensed Installers:** The Brunes agree that for all future installations, they shall use licensed installers to arrange proper initial setup of new manufactured homes they sell.
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19. **Monthly Sales Reports :** The Brunes agree to file monthly sales reports, as required by § 700.096.1, RSMo and 20 CSR 4240-120.130(1).

² 20 CSR 4240-120.085(1)(C) allows the Manager to assess a \$200 fee per re-inspection for re-inspections after the first. There were 9 second and third inspections in this matter, so the re-inspection fees are \$1800.

20. **Property Locators**: The Brunes agree to file property locators, as required by 20 CSR 4240-120.065(2)(A).
21. **Dismissal of Complaint**: Upon correction of the deficiencies described in Paragraphs 12, 13, and 14 and payment of fees described in Paragraphs 15 and 16, the Manager agrees to dismiss the complaint in case no. MC-2020-0135. Despite any complaint dismissal, Respondents further agree that the provisions of Paragraphs 17, 18, 19, and 20 constitute and remain ongoing obligations.

MISCELLANEOUS PROVISIONS

22. Upon the Manager's reasonable belief that a violation of any of the above conditions has occurred, the Manager may file a motion with the Commission seeking disciplinary action (for example, suspension or revocation of dealer registration) and penalties as the 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 Signatories agree that the Commission may enter an order regarding discipline and penalties that the Commission deems just and proper.
23. This Agreement has resulted from extensive negotiations among the Signatories and the terms hereof are interdependent. If the Commission does not approve this Agreement unconditionally and without modification, then this Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof, except as expressly provided herein.
24. If the Commission does not unconditionally approve this Stipulation and Agreement without modification, and notwithstanding the provision herein that it shall become void, neither this *Stipulation and Agreement* nor any matters associated with its consideration by the Commission shall be considered or argued to be a waiver of the rights that any Signatory has for a decision in accordance with § 536.080, RSMo. 2000, or Article V, Section 18 of the Missouri Constitution, and the Signatories shall each retain all procedural and due process rights as fully as though this Stipulation and Agreement had not been presented for approval. If the Commission does not unconditionally approve this Stipulation and Agreement without modification, any suggestions, memoranda, testimony, or exhibits that have been offered or received in support of this *Stipulation and Agreement* shall become privileged as reflecting the substantive content of settlement discussions and shall not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.
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present testimony, to cross-examine witnesses, to present oral argument and written briefs pursuant to § 536.080.1; (2) to the reading of the transcript by the Commission pursuant to § 536.080.2, (3) to seek rehearing pursuant to § 386.500, and; (4) to judicial review of the Commission's Report and Order in this matter pursuant to § 386.510. These waivers apply only to the issues that are resolved hereby, and specifically do not apply to any matters raised in any prior or subsequent Commission proceeding or any matters not explicitly addressed by this Stipulation and Agreement.

26. This *Stipulation and Agreement* was prepared by the Office of Staff Counsel. The Signatories acknowledge that no provision of this *Stipulation and Agreement* will be interpreted in favor of, or against, any of the Signatories hereto because any such Signatory or its counsel participated in the drafting thereof or because any such provision is inconsistent with any prior draft hereof or thereof. Each Signatory acknowledges such Signatory has participated in the negotiation of this *Stipulation and Agreement* and had an opportunity to participate in the drafting and preparation of this *Stipulation and Agreement*, and the Signatories represent and warrant that they have not been coerced into entering into this *Stipulation and Agreement*, nor has any person or entity exercised any pressure or undue influence on such Signatory to enter into this *Stipulation and Agreement*.
27. Each of the Signatories hereto further states and represents that he, she, or it has carefully read the foregoing *Stipulation and Agreement* and knows the contents thereof, and that he, she, or it has executed the same as his, her, or its own free act and deed.



Justin Smith
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Modular Units Program for the Missouri
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APPROVED AS TO FORM:

/s/ Karen E. Bretz

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/s/ Thad M. Brady

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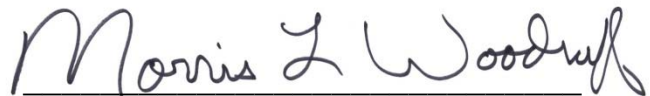
STATE OF MISSOURI

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 21st day of October, 2020.**




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

October 21, 2020

File/Case No. MC-2020-0135

**Missouri Public Service
Commission**

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Brune Mobile Sales

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**Missouri Public Service
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**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.