

MISSOURI REAL ESTATE COMMISSION:

Agent who violates the
Act may have his license
revoked.

May 15, 1942

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Mr. J. W. Hobbs
Secretary
Missouri Real Estate Commission
Jefferson City, Missouri

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Dear Sir:

We are in receipt of your letter of May 14, 1942,
in which you request an official opinion, as follows:

"The Commission is confronted with an inquiry from Kansas City that we would like to ask your office for an opinion and at the same time ask if we have jurisdiction over licensees and their actions in municipalities having restrictions in certain districts of the City.

"The opinion desired is on the following:

"Negroes have been gradually encroaching on property in districts restricted against colored. They have recently taken practically the entire block on three streets. Negro agents are soliciting listings for sale to colored people from property owners in several blocks that are restricted against negroes, and are now attempting to negotiate a sale of a four apartment building in one block restricted against negroes.' 'The restrictions expired in 1928 and were automatically renewed for an additional 15 year period, on the property in question. One block expired in 1929 and was automatically renewed for an additional

15 year period in accordance with the provision contained in the original restrictions.'

"Two negroes active in the above listings are licensed as brokers."

Section 10, paragraph (a) of the Missouri Real Estate Commission Act, Laws of 1941, page 428, reads as follows:

"(a) Making substantial misrepresentations or false promises in the conduct of his business, or through agents or salesmen or advertising, which are intended to influence, persuade or induce others."

Under the above paragraph of Section 10 the Commission, upon its own motion, shall have the power to revoke any license where the agent makes substantial and false misrepresentations to obtain a sale such as, offering to make a sale that cannot be legally consummated.

Paragraph (g), Section 10 of the same law reads as follows:

"(g) Any other conduct which constitutes untrustworthy or improper, fraudulent or dishonest dealings, or demonstrates bad faith or gross incompetence."

Section 11 of the Missouri Real Estate Commission Act, as it appears on page 429, Laws of Missouri, 1941, reads as follows:

"The commission may deny an application for a license, or suspend or revoke a license issued, only after a hearing of which the applicant or licensee affected shall be given at least ten days' written notice specifying the reason for denying the applicant a license, or, in case of a suspension or revocation, the offense or offenses of which the licensee is charged. Such notice may be served as provided by law for the service of notices, or by mailing a copy by registered mail to the last known residence or business address of such applicant or licensee. The hearing on such charges shall be at such time and place as the commission may prescribe. * * * * *"

Under the facts set out in your request, the negro real estate agents who have a license under your department, and who have made misrepresentations to prospective buyers of the property set out in your request, have violated only paragraph (a) and paragraph (g) of Section 10 of the Missouri Real Estate Commission Act, as set out in the Session Laws of 1941.

Under Section 11 of such act it would be necessary for the Commission to set out in a new notice the exact violation of the Missouri Real Estate Commission Act, and under paragraph (a) and paragraph (g) of Section 10 of the Missouri Real Estate Commission Act of 1941, it would be necessary to show that the person who holds a license under the Missouri Real Estate Commission Act knew that the property which they offered for sale should not be sold to negroes or people of the Ethiopian race.

Mr. J. W. Hobbs

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CONCLUSION

It is, therefore, the conclusion of this Department, under the above authorities, that a person who holds a real estate license under the Missouri Real Estate Commission, who makes substantial misrepresentations in the conduct of his business or who makes representations under any conduct which constitutes untrustworthy or improper, fraudulent or dishonest dealings, his license may be revoked under Section 11 of the Missouri Real Estate Commission Act which appears at page 424, Laws of Missouri, 1941.

Respectfully submitted,

W. J. BURKE
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

WJB/rv