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April 25, 2006

FILED⁴

HAND DELIVERY

Public Service Commission
Governor Office Building
200 Madison Street
Jefferson City, MO 65101

APR 25 2006

**Missouri Public
Service Commission**

Re: Manager of the Manufactured Housing and Modular Units Program of the Public
Service Commission v. Four Season's Manufacturing, Inc., Case No. MC-2006-
0388

Dear Sir or Madam:

Enclosed for filing please find the original and eight (8) copies of Respondent's Answer to Complaint in the above-referenced matter. In addition, I have attached a duplicate copy and ask that you file stamp it and return same to me with our messenger.

If you have any questions, please do not hesitate to contact me.

Sincerely,

ROBERT L. HESS II

RLH:cw
Enclosures
cc: Counsel of Record (w/enclosure)

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**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

FILED⁴

APR 25 2006

**Missouri Public
Service Commission**

Manager of the Manufactured Housing and)
Modular Units Program of the Public)
Service Commission,)

Complainant,)

v.)

Case No. MC-2006-0388

Four Season's Manufacturing, Inc.,)

Respondent.)

RESPONDENT'S ANSWER TO COMPLAINT

The Respondent, Four Seasons Manufacturing, Inc. ("Four Seasons") answers the *Complaint* filed in this proceeding as follows:

AUTHORITY

1. Four Seasons admits that the Public Service Commission ("Commission") has statutory authority to inspect and regulate "manufactured homes," "modular units," and their "manufacturers" and "dealers," as those terms are defined in chapter 700, RSMo 2000 & Supp. 2005. Four Seasons denies all other allegations in Paragraph 1.

2. Four Seasons admits that 4 CSR 240-120.031 states that the Commission has delegated to the "director," as that term is defined in 4 CSR 240-120.011, all of its "powers and responsibilities under Chapter 700, RSMo with respect to new manufactured homes, except the power to revoke, deny, refuse to renew or place on probation a registration under section 700.090, RSMo." Four Seasons denies all other allegations in Paragraph 2.

3. Four Seasons admits that it is currently registered under 700.090, RSMo, as a Manufacturer of Modular Units, and that a true and accurate copy of the *Certificate of*

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Manufacturer Registration is attached to the *Complaint* as Appendix A. Four Seasons further states that the Certificate of Manufacturer Registration speaks for itself. Four Seasons denies all other allegations in Paragraph 3.

4. Four Seasons admits that a true and accurate copy of an Application for Manufacturer Registration, filed under the name Four Season's Manufacturing, Inc., is attached to the Complaint as Appendix B. Four Seasons states the Application for Manufacturer Registration speaks for itself. Four Seasons admits Four Seasons Housing, Inc. applied for and was issued a Certificate of Authority for a Foreign For-Profit Corporation. Four Seasons admits that true and accurate copies of those documents are attached to the Complaint as Appendix C and Appendix D, respectively. Four Seasons states that Appendix C and Appendix D speak for themselves. Four Seasons denies all other allegations in Paragraph 4.

5. Four Seasons admits that the registered agent for Four Seasons Manufacturing, Inc. is CSC-Lawyers Incorporating Service Company, 221 Bolivar Street, Jefferson City, MO 65101. Four Seasons denies all other allegations in Paragraph 5.

BACKGROUND

6. Four Seasons admits that true and accurate copies of the Site Inspection Report and related documents are attached to the *Complaint* as Appendix E. Four Seasons states that the Site Inspection Report and related documents speak for themselves. Four Seasons is without sufficient information or belief to answer all other allegations in Paragraph 6, and therefore denies them.

7. Four Seasons is without sufficient information or belief to answer the allegations in Paragraph 7, and therefore denies them.

ALLEGATIONS

8. Four Seasons admits the allegations stated in Paragraph 8.
9. Four Seasons admits the allegations stated in Paragraph 9.
10. Four Seasons admits that Blakely Manufactured Homes, the selling dealer, completed the delivery and set up of the modular unit home purchased by Larry and Joyce King before March 13, 2006 (hereinafter the "Kings' modular unit"). Four Seasons is without sufficient information or belief to answer all other allegations in Paragraph 10, and therefore denies them
11. Four Seasons admits that 4 CSR 240-123.080(3) states that "[t]he structure shall be manufactured in accordance with and meet the requirements of the following building codes: . . . *International Residential Code-2000*." Four Seasons states that the Staff's Report speaks for itself. Four Seasons denies all other allegations in Paragraph 11.

COUNT 1

12. Four Seasons admits that section 700.015(4), RSMo, states that "[n]o person shall offer for rent, lease or sale a modular unit . . . unless such modular unit complies with the code and bears a seal issued by the commission evidencing compliance with the code." Four Seasons admits that 4 CSR 240-123.030(1) states "[n]o modular unit . . . shall be . . . sold . . . in this state unless a seal or approved insignia is properly affixed to it." Four Seasons admits that section 700.010(13) defines "seal" as "a device, label or insignia issued by the public service commission, U.S. Department of Housing and Urban Development, or its agent, to be displayed on the exterior of the manufactured home, or modular unit to evidence compliance with the code." Four Seasons denies that it violated section 700.015(4), RSMo or 4 CSR 240-123.030(1). Four Seasons denies that it failed to place the required Missouri seal on the Kings' modular unit.

Such seals are affixed to homes constructed by Four Seasons by an independent party, T.R. Arnold & Associates, Inc. ("TRA"). TRA's records show that a Missouri seal was affixed to the Kings' modular unit. Four Seasons denies all other allegations in Paragraph 12.

COUNT 2

13. Four Seasons admits that 4 CSR 240-123.080(6) states, in part, that "[e]ach modular unit shall bear a data plate affixed in a permanent manner near the main electrical panel or other readily accessible and visible location" and that "[e]ach data plate shall include the . . . code the unit was built to." Four Seasons denies that it violated 4 CSR 240-123.080(6). Four Seasons denies that it failed to affix a manufacturer "Data Plate" to the Kings' new home. Four Seasons denies that it failed to list, on a copy of the manufacturer "Data Plate" the code to which the Kings' new modular unit home was built. TRA affixes such Data Plates to homes manufactured to Four Seasons, along with a "code card" which identifies the building code to which the home was constructed. A specimen copy of the "code card" is attached as **Exhibit 1**. Four Seasons denies all other allegations in Paragraph 13.

COUNT 3

14. Four Seasons admits that it manufactured the Kings' modular unit on or about January 30, 2006. Four Seasons admits that the home was shipped into Missouri on or about February 6, 2006. Four Seasons admits that 4 CSR 240-123.040(11) states that "[a]ll subsequent modular unit plans and installation diagrams for each additional type of modular unit (or model) to be manufactured must also be submitted to the director for approval." Four Seasons states that the director approved the plan for the Kings' modular unit in August 2004 and that the plan has not changed since that time. The renewal for the plan was approved by the Commission on March 1, 2006. Four Seasons denies all other allegations in Paragraph 14.

PENALTIES

15. Four Seasons admits that Paragraph 15 accurately quotes sections 700.115.1 and 700.115.2, RSMo. To the extent Paragraph 15 includes any additional allegations, they are denied.

16. Four Seasons admits that section 700.040(5) states that “[t]he Commission may issue and promulgate such rules and regulations as necessary to make effective the code and the provisions of sections 700.010 to 700.115.” Four Seasons admits that 4 CSR 240-123.080(3) states that “[t]he structure shall be manufactured in accordance with and meet the requirements of the following building codes: . . . *International Residential Code-2000*.” Four Seasons admits that section 700.010(2), RSMo, states “ ‘Code’, the standards relating to manufactured homes, or modular units as adopted by the commission. The commission, in its discretion, may incorporate, in whole or in part, the standards codes promulgated by the American National Standards Institute, the United States Department of Housing and Urban Development or other recognized agencies or organizations.” Four Seasons denies all other allegations in Paragraph 16.

17. Four Seasons admits that section 700.100.3(4), RSMo, states that “[e]ngaging in any conduct which constitutes a violation of the provisions of section 407.020, RSMo” is “grounds for the suspension, revocation or placing on probation of a manufacturer’s or dealer’s registration.” Four Seasons denies all other allegations in Paragraph 17.

18. Four Seasons admits that Paragraph 18 accurately quotes section 386.600, RSMo. To the extent Paragraph 18 includes any other allegations, they are denied.

MOTION FOR EXPEDITED ANSWER

19. Four Seasons admits the allegations stated in Paragraph 19.

20. Four Seasons acknowledges that an *Order for Expedited Answer* was issued on April 10, 2006. Four Seasons denies all other allegations in Paragraph 20.

Based on the foregoing, Four Seasons requests that the Commission:

- a. Find that Four Seasons did not fail to affix the required Missouri "seal" to the Kings' modular unit;
- b. Find that Four Seasons did not fail to affix the required "data plate" to the Kings' modular unit;
- c. In the alternative, find that Four Seasons did not intentionally fail to affix the required Missouri seal or data plate on the modular unit;
- d. Find that Four Seasons did have a Commission approved plan on file for the Kings' modular unit;
- e. Find that, to the extent that Four Seasons had failed to renew its approved plan, Four Seasons cured its failure by filing for and obtaining a renewal;
- f. Determine that denial of Four Season's ability to renew its Manufacturer Registration is unwarranted;
- g. Determine that civil penalties are unwarranted;
- h. Issue other findings and orders as are just and reasonable.

AFFIRMATIVE DEFENSES

21. Four Seasons complied with all relevant statutes and regulations regarding seals and data plates for the Kings' modular unit. Four Seasons contracts with TRA to affix seals, data plates, and code cards to modular units. TRA's records indicate that it affixed the required seal, data plate, and code card to the Kings' modular unit.

22. In so far as the Commission has incorporated, in whole or in part, the standards

codes promulgated by the American National Standards Institute, the United States Department of Housing and Urban Development or other recognized agencies or organizations without promulgating them as rules or incorporating them specifically by rule, they are void in violation of section 536.021.7, RSMo. In so far as the Commission has applied unpromulgated standards codes to Respondent, its action is void under section 536.021.7, RSMo.

HUSCH & EPPENBERGER, LLC

By Robert L. Hess II

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ATTORNEYS FOR RESPONDENT

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Answer was served upon the following attorneys/parties of record by depositing the same in the United States mail, properly addressed, postage prepaid, on the 25th day of April, 2006.

Robert S. Berlin
Associate General Counsel
Attorney for the Director of the
Manufactured Housing and Modular Units
Program of the Missouri Public Service
Commission
Post Office Box 360
Jefferson City, MO 65102

Office of Public Counsel
Lewis Mills
200 Madison Street, Suite 650
Jefferson City, MO 65012
opcservice@ded.mo.gov

By Robert L. Hess II



THIS MANUFACTURED STRUCTURE HAS BEEN CONSTRUCTED
IN CONFORMANCE WITH THE FOLLOWING CODES:

- ☐ NATIONAL ELECTRICAL CODE
- ☐ INTERNATIONAL BUILDING CODE
- ☐ INTERNATIONAL MECHANICAL CODE
- ☐ INTERNATIONAL PLUMBING CODE
- ☐ INTERNATIONAL ENERGY CONSERVATION CODE
- ☐ INTERNATIONAL RESIDENTIAL CODE
- ☐ INTERNATIONAL FUEL GAS CODE
- ☐ BOCA NATIONAL BUILDING CODE
- ☐ BOCA NATIONAL PLUMBING CODE
- ☐ BOCA NATIONAL MECHANICAL CODE
- ☐ SBCCI STANDARD BUILDING CODE
- ☐ SBCCI STANDARD PLUMBING CODE
- ☐ SBCCI STANDARD MECHANICAL CODE
- ☐ SBCCI STANDARD GAS CODE
- ☐ ICBO UNIFORM BUILDING CODE
- ☐ ICBO UNIFORM PLUMBING CODE
- ☐ ICBO UNIFORM MECHANICAL CODE
- ☐ CABO MODEL ENERGY CODE
- ☐ CABO ONE & TWO FAMILY DWELLING CODE