

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 155-0912

KIM WADE, BROKER

RESPONDENT

ORDER

This cause came on for hearing on a formal complaint before the Mississippi Real Estate Commission, hereinafter referred to as "Commission", pursuant to authority of §§73-35-1, *et seq.*, Miss. Code Ann. (1972), as amended. The hearing was re-scheduled after an initial setting and the parties and witnesses were notified of the date of the hearing. The Respondent, Kim Wade, appeared at the hearing and was represented by counsel. All of the Commissioners of the Mississippi Real Estate Commission were in attendance and sat as the hearing panel. The witnesses were sworn and gave testimony under oath with a court reporter taking notes. The rule on witness sequestration was invoked by the Respondent. The parties presented witnesses, documentary exhibits and conducted direct and cross examination of witnesses. At the conclusion of the hearing, the Commissioners retired to executive session to consider the testimony and evidence and render a decision. Based on the evidence admitted at the hearing, the Commissioners

issued their Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

FINDINGS OF FACT

I.

Respondent Kim Wade is an adult resident of Mississippi, whose last known address is Kim Wade Real Estate, 710 Avignon Park Drive, Suite 4, Ridgeland, Mississippi 39157. Respondent Wade is the holder of an real estate broker's license issued by the Commission pursuant to §§73-35-1, et seq., Miss. Code Ann. (1972), as amended, and, as such, he is subject to all of the provisions, rules, regulations and statutes governing the sale and transfer of real estate and licensing of real estate brokers under Mississippi law.

II.

John Eubanks filed a sworn statement of complaint with the Commission. It was in proper form and assigned to Chief Investigator Jim King. The complaint of Eubanks stated that he had listed his property located at 1268 Lewis Lane, Terry, Mississippi 39170 with Respondent Kim Wade. Mr. Eubanks appeared at the hearing and testified. He testified that Kim Wade represented to him that he was a participant in the Jackson Association of Realtors Multiple Listing Service. That is evidenced by a copy of the listing agreement which was admitted as an attachment to his sworn complaint and marked as Exhibit 3. Eubanks testified that he received a contract to buy the property from Chris Barnes. The sale was to close at the end of September 2009 but did not close.

Eubanks testified that he was frustrated because he could get no information about the failure of the sale and began to investigate. He testified that he went to the offices of the Jackson Association of Realtors to request a copy of the advertisement in the Multiple Listing Service. He testified that it was difficult to find because, as it turned out, his property was not advertised under the name of Kim Wade but under the name of Prestige Realty. When Eubanks reviewed the advertisement, he found a number of erroneous facts listed about his property. He testified that he had never spoken to the broker for Prestige Realty, Melissa Reese and had never authorized her to represent him in this transaction. Eubanks testified that he believed his property had been described in such a fashion that could have caused him to lose prospective buyers. The Multiple Listing Service advertisement, which is the copyrighted property of the MLS, was introduced as an attachment to Exhibit 3 and Mr. Eubanks testified that he circled a number of errors on the advertisement.

III.

Jo Usry , the Chief Executive Officer of the Jackson Association of Realtors, appeared and testified. She was familiar with the facts concerning the complaint filed by Mr. Eubanks and had reviewed the records of the Jackson Association of Realtors and the Multiple Listing Service at the request of Mr. Eubanks. She testified that Mr. Wade had been a subscriber of Jackson Association of Realtors and its Multiple Listing Service while he was affiliated with Ann Prewitt, a broker. On approximately June 15, 2009, Ann

Prewitt terminated her relationship with Kim Wade and sent his license to the Mississippi Real Estate Commission. She did not, however, notify the Jackson Association of Realtors that she was not affiliated with Mr. Wade any longer. Ms. Usry testified that on the date Ann Prewitt turned in his license to the MREC, Mr. Wade was no longer a member of the Multiple Listing Service. He had a thirty day grace period to join the JAR but that grace period was not available for him to join the MLS. She testified that the two organizations were different companies and in order to be a member of the Multiple Listing Service, a separate application had to be submitted. Ms. Usry further testified that Mr. Wade had not submitted an application to become a principal in the Multiple Listing Service and as of July 5, 2009, he was not a member of the Multiple Listing Service. Thus, on the date of the listing with John Eubanks where he represented that he was a participant in the Multiple Listing Service, he was not.

IV.

At a later date in August 2009, the Jackson Association of Realtors received notice from Ann Prewitt that she had turned in Mr. Wade's license to the Mississippi Real Estate Commission. It was at that time that the JAR/MLS discovered that Mr. Wade was not a member of either organization and took the steps to notify him of that. The organization offered to give Mr. Wade credit for any fees that he had paid to be applied toward future membership. As of the date of the hearing, Mr. Wade had not joined either organization.

V.

Mr. Wade's defense made much of the fact that he had made dues payments to the JAR/MLS and that the organization had not been attentive to its responsibilities to notify him. Those were matters between Mr. Wade and that organization. The evidence presented at the hearing showed indisputably that Mr. Wade was not a member of the Multiple Listing Service in Jackson at the time he represented he was a member on July 5, 2009, the date of the listing with Mr. Eubanks. Mr. Wade's explanation is not aided by virtue of the fact that he advertised Mr. Eubanks property under the name of Prestige Realty.

CONCLUSIONS OF LAW

VI.

The evidence being clear and convincing and virtually undisputed, the Commission finds the above and foregoing described acts of the Respondent Kim Wade violated the Mississippi Real Estate Brokers License Act of 1954, as amended, §§73-35-1, *et seq.*, Miss. Code Ann., more specifically, §73-35-21(1)(a) and the Rules and Regulations of the Commission, specifically IV.C.1.

§73-35-21(a) Making any substantial misrepresentation in connection with a real estate transaction;

IV.C.1. The use of any copyrighted term or insignia on stationery, office signs, or in advertising by any licensee not authorized to do so, will be considered as "substantial misrepresentation" and cause for refusal, suspension, or revocation of the license.

DISCIPLINARY ORDER

VII.

Having made Findings of Fact and Conclusions of Law, it is the decision of the Commission to render the following disciplinary action against the license of Respondent Kim Wade:

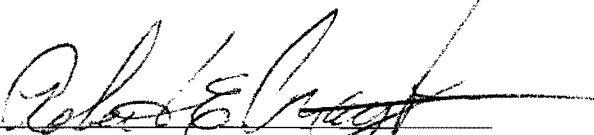
1. Respondent's license will be suspended for a period of ninety (90) days but after his suspension of forty-five (45) days, the remaining days of suspension will be held in abeyance so that he will be permitted to practice real estate law insofar as he complies with the rules and regulations.
2. Prior to the completion of the ninety (90) day suspension, he shall complete eight (8) hours of continuing education, two (2) of which shall be in license law, two (2) in contracts and four (4) in agency, and this shall be in addition to that required for renewal of his license. Upon completion of this continuing education, Mr. Wade shall furnish the Commission written evidence of his satisfaction of this requirement.

This Order shall be effective thirty (30) days from the date hereof.

This the 23rd day of July, 2010.

MISSISSIPPI REAL ESTATE COMMISSION

BY:

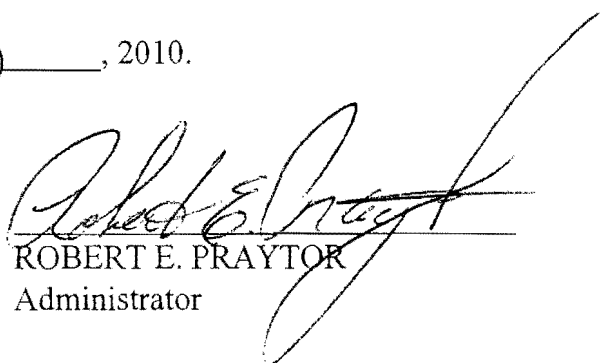

ROBERT E. PRAYTOR
Administrator



CERTIFICATE

I, ROBERT E. PRAYTOR, Administrator for the Mississippi Real Estate Commission, do hereby certify that I have this date mailed a true and correct copy of the foregoing Order by certified mail, through the United States Postal Services, postage prepaid, to the Respondent Kim Wade, Broker.

This the 23rd day of July, 2010.


ROBERT E. PRAYTOR
Administrator



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MISSISSIPPI REAL ESTATE COMMISSION

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Kim Wade	Chief Investigator, Jim King
COMPANY:	DATE:
Kim Wade Real Estate	JULY 23, 2010
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THANKS,
JIM



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FAX: (601) 932-2990

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