

FILED

**MREC vs. Kim Wade, Broker**

1

SEP 02 2010  
CLERK  
BARBARA  
BY

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION COMPLAINANT

V.

NO. 155-0912

KIM WADE, BROKER

RESPONDENT

\*\*\*\*\*

Taken at the offices of  
The Mississippi Real Estate Commission,  
Jackson, Mississippi,  
on Tuesday, July 13, 2010,  
beginning at approximately 10:15 a.m.

\*\*\*\*\*

APPEARANCES NOTED HEREIN

**ORIGINAL**

CHRISTY R. SIEVERT, CSR, RPR  
PROFESSIONAL COURT REPORTING, LLC  
Registered Professional Reporter  
Certified Shorthand Reporter  
Mississippi CSR No. 1421  
Post Office Box 320928  
Jackson, Mississippi 39232-0928  
(601) 919-8662

**Professional Court Reporting, LLC  
601.919.8662**

1	APPEARANCES
2	
3	MREC BOARD MEMBERS:
4	MR. JOE STEDMAN
	MR. LARRY EDWARDS
5	MR. AL GILLESS
	MR. JOHN DEAN
6	MR. MARK CUMBEST
7	
	COUNSEL FOR MISSISSIPPI REAL ESTATE COMMISSION:
8	
	MR. JOHN MAXEY
9	
10	COUNSEL FOR KIM D. WADE:
11	MS. TAMEKIA GOLIDAY
	MR. JIM CALDWELL
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

1	TABLE OF CONTENTS	
2		PAGE
3	Title Page.....	1
4	Appearance Page.....	2
5	Table of Contents.....	3, 4
6	Exhibit Pages.....	5, 6, 7
7	PRELIMINARY MATTERS:	
8	Motion to Quash Subpoenas.....	10
9		
10	MREC'S CASE IN CHIEF:	
11	EXAMINATION OF JIM KING:	
12	By Mr. Maxey.....	17
13	By Ms. Goliday.....	33
14	EXAMINATION OF JOE USRY:	
15	By Mr. Maxey.....	48
16	By Ms. Goliday.....	57
17	By Mr. Maxey.....	121
18	EXAMINATION OF JOHN EUBANKS:	
19	By Mr. Maxey.....	128
20	By Ms. Goliday.....	146
21		
22	RESPONDENT'S CASE IN CHIEF:	
23	EXAMINATION OF CHRIS BARNES:	
24	By Ms. Goliday.....	124
25	EXAMINATION OF BEVERLY HICKEY:	
	By Ms. Goliday.....	165
	By Mr. Edwards.....	178
	By Ms. Goliday.....	181

MREC vs. Kim Wade, Broker

1	(continued:)	
2	EXAMINATION OF REBECCA "BECKY" STACY:	
3	By Ms. Goliday.....	189
4	EXAMINATION OF KIM WADE:	
5	By Ms. Goliday.....	191
	By Mr. Maxey.....	203
6	By Ms. Goliday.....	209
7	Certificate Page.....	211
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

## MREC vs. Kim Wade, Broker

5

1	EXHIBIT	DESCRIPTION
2	No. 1	Motion to Quash Subpoenas
3		For the Hearing Testimony and
4		Document Production and Release
5		of Witnesses
6	No. 2	Response to Motion to Quash For
7		Hearing Testimony and Document
8		Production and Release of Witnesses
9	No. 3	Sworn Statement/Complaint For Filing
10		With the Mississippi Real Estate
11		Commission
12	No. 4	Letter dated 12-7-09 from
13		Robert Praytor to Melissa Reese
14	No. 5	Letter dated 12-7-09 from Kim Wade
15		with attachments
16	No. 6	Letter dated 12-8-09
17		from Melissa Reese
18	No. 7	Letter dated 12-11-09 from
19		Robert Praytor to John Eubanks
20	No. 8	Letter dated 12-11-09 from
21		John Eubanks to Robert Praytor
22		with attachments
23	No. 9	Letter dated 12-30-09 from
24		Kim Wade to Robert Praytor
25		with attachments
26	No. 10	Letter dated 1-17-10 from
27		Melissa Reese to Robert Praytor
28	No. 11	Letter dated 1-20-10 from
29		Robert Praytor to John Eubanks
30	No. 12	Letter dated 1-16-10 from
31		John Eubanks to Jim King
32	No. 13	Letter dated 1-22-10 from
33		John Eubanks to Jim King
34	No. 14	Fax Transmittal dated 1-15-09
35		from Sallie Plumpp to Jim King

**Professional Court Reporting, LLC**  
**601.919.8662**

## MREC vs. Kim Wade, Broker

6

1	(continued)	
2	No. 15	MREC Complaint
3	No. 16	Request For Issuance of Subpoenas
4		for Hearing Testimony, Document
5		Production, and Inspection of
6		Investigative File Maintained
7		By the Mississippi Real Estate
8		Commission
9	No. 17	Request For Discovery/Production
10		of Documents
11	No. 18	Motion to Dismiss Complaint
12		No. 155-0912
13	No. 19	Followup to Request For Subpoena
14		and Production of Documents
15	No. 20	Answer to Complaint
16	No. 21	E-mail correspondence between
17		Kim Wade and Jo Usry
18	No. 22	Document entitled "Two Companies
19		Under One Roof"
20	No. 23	MLS fees for Kim Wade
21	No. 24	Memo to MLS participants
22		dated 5-19-10 from Jo Usry
23	No. 25	E-mail dated 12-12-09 from
24		Jo Usry to Kim Wade
25	No. 26	E-mail dated 12-16-09 from
		Jo Usry to Kim Wade
	No. 27	Residential Agent Full Report
		Listing for 618 Willow Bay Dr.
	No. 28	Letter dated 4-2-10 from
		John Eubanks to Jo Usry
	No. 29	Affidavits of John Eubanks
		and Kim Wade

**Professional Court Reporting, LLC**  
**601.919.8662**

1 (continued)  
2 No. 30 Letter dated 10-29-09 from  
Beverly Hickey to Emma Sanders  
3  
4 No. 31 Letter dated 12-3-09 from  
Diane Bruce to Kim Wade  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## MREC vs. Kim Wade, Broker

8

1                   MR. GILLESS: We'll call this meeting  
2 to order.

3                   The Mississippi Real Estate  
4 Commission is charged with holding this hearing  
5 cited as the Mississippi Real Estate Commission  
6 vs. Kim Wade, Principal Broker, in accordance with  
7 the procedures as set forth in the State of  
8 Mississippi Real Estate Broker's License Act of  
9 1954, as amended.

10                  This panel consists of impartial  
11 commissioners who have been assembled today to  
12 assert the truth of the matter at hand. I am the  
13 chairman of the Mississippi Real Estate  
14 Commission. My name is Al Gilless. The other  
15 MREC members are Mr. Larry Edwards, Mr. Mark  
16 Cumbest, Mr. John Dean, Jr., and Mr. Joe Stedman.

17                  Also present at the hearing is  
18 Mr. John Maxey, the attorney for the MREC;  
19 Mr. David Griffith, contract investigator; Mr. Jim  
20 King, chief investigator; and Mr. Rick  
21 Stubblefield, investigator; and Mr. Robert  
22 Praytor, the administrator of the MREC.

23                  This meeting has been established to  
24 consider the complaint of the Mississippi Real  
25 Estate Commission vs. Mr. Kim Wade, alleging



1 certain violations of the state statutes and the  
2 rules and regulations of the MREC.

3 All parties or their representatives  
4 to this proceeding will be allowed a full  
5 opportunity to be heard on matters relevant to the  
6 issues. All parties will be asked to swear or  
7 affirm the testimony given is the truth to the  
8 best of their knowledge.

9 We shall now proceed with the  
10 hearing.

11 MR. MAXEY: Mr. Chairman, I'm John  
12 Maxey. There are others present in the room. And  
13 if you'd wish, we could have them identify  
14 themselves for the record.

15 MR. GILLESS: Okay.

16 MR. MAXEY: And we'll start with  
17 Mr. Dean.

18 MR. PHILLIPS: John Phillips.

19 MR. MAXEY: I mean, John Phillips.  
20 I'm sorry.

21 MR. PHILLIPS: Mississippi  
22 Association of REALTORS.

23 MS. WHITFIELD: Kathy Whitfield,  
24 Mississippi Association of REALTORS.

25 MS. DENTON: Dee Denton, Denton

1 Realty.

2 MR. PRAYTOR: Robert Praytor, I'm the  
3 administrator.

4 MR. MAXEY: I think everybody else  
5 has been identified.

6 MS. GOLIDAY: Just before we start,  
7 Ms. Denton, her position here? Her purpose?

8 MS. DENTON: Observant.

9 MR. MAXEY: Mr. Chairman, if it  
10 pleases, before we take up the hearing itself and  
11 the evidence, the respondent requested that the  
12 Commission serve nine subpoenas on witnesses, and  
13 those have all been served. And all of those  
14 witnesses are here except for three. Some were  
15 requested to bring or produce documents, and those  
16 are underway, have either been produced or have  
17 those documents with them.

18 There are three of those witnesses  
19 that we have requested be released from their  
20 subpoenas and not be required to be here and be  
21 fully released. And I'll elaborate on that.  
22 Those are Mr. Sartin who -- and Mr. Morrow who are  
23 two attorneys in Brandon who were the closing  
24 attorneys for Mr. Wade and Mr. Eubanks who are  
25 concerned with the underlying transaction, which

1 was the subject of the investigation in the  
2 complaint here.

3                   The third is Mr. Lee Garland who is  
4 the chairman of the Jackson Association of  
5 REALTORS and Multiple Listing Service and is -- is  
6 out of town.

7                   All three of those witnesses have in  
8 writing made known their conflicts. Mr. Garland  
9 is -- and Mr. Morrow are overseas and out of town  
10 and not available to be here today, and informed  
11 us of that ahead of time. And Mr. Sartin is a  
12 public defender in one of the courts in Rankin  
13 County and attempted to find a substitute and was  
14 unable to find a substitute for today's  
15 responsibilities as public defender.

16                   We filed a written motion and served  
17 it on Ms. Goliday as counsel for Mr. Wade and  
18 justified our request on the following -- for the  
19 following reasons: One is that Mr. Morrow and  
20 Mr. Sartin were the closing attorneys and have --  
21 in the underlying transaction and have no  
22 knowledge of the complaint and no -- had no  
23 responsibilities for the Real Estate Commission's  
24 investigation or responsibilities.

25                   They did have the closing documents

1 for the underlying transaction, and those closing  
2 documents were produced under affidavit and --  
3 representations that they constitute all of the  
4 documents. Those are here in my possession. And  
5 Ms. Goliday has been -- has requested and was  
6 given the opportunity to review those prior to the  
7 hearing today, and, of course, can review those  
8 and use them to her client's best interest today.

9                   Mr. Garland is the third witness.  
10 And as I said earlier, he's out of the country, as  
11 he represented. And his only responsibility, as  
12 we understand it, is president of the board of  
13 directors of the Jackson Association of REALTORS  
14 and Multiple Listing Service. He is a titular  
15 head in the sense he has no day-to-day  
16 responsibilities for the carrying on of the  
17 business of the JAR or the Multiple Listing  
18 Service.

19                   And in lieu of that, one of the  
20 subpoenaed witnesses, Joe Usry, is executive  
21 director of that organization, and she is here  
22 under the subpoena. And Mr. Wade and Ms. Goliday  
23 requested that she bring all of the relevant  
24 documents to the Jackson Association of REALTORS  
25 and Multiple Listing Service matters, and she is

1 here with those documents.

2           So we represent to the Commission  
3 that there's not going to be any prejudice to  
4 Mr. Wade's case, in our view, because all of the  
5 documents that he has requested will be here. The  
6 witnesses that would be here, in addition to that,  
7 would offer no testimony that would be anything  
8 other than what those documents say.

9           And so we respectfully request that  
10 the Commission release them from these subpoenas  
11 and allow these subpoenas to be quashed and the  
12 documents to be put to whatever use either party  
13 wishes to use them.

14           In the alternative, I think it would  
15 be reasonable to say that if the Commission, in  
16 its deliberations, determines that these subpoenas  
17 should be enforced and these witnesses should be  
18 present, either one or more of them, then we  
19 should continue this hearing in the interest of  
20 due process and have it scheduled at another time  
21 when these or other witnesses could be present.

22           And that concludes our argument, and  
23 we would defer to counsel to rebut that.

24           MS. GOLIDAY: Okay. Basically, we  
25 take the position that Mr. Wade would be

1 prejudiced by these witnesses not being here,  
2 specifically Mr. Garland.

3           Mr. Garland sits as the president of  
4 the board of directors for MLS. The charges  
5 against Mr. Wade alleges that he wrongly or  
6 falsely indicated using the MLS system that he was  
7 a member. And as the president of that board, he  
8 is necessary -- Mr. Garland is necessary because  
9 he can, A, offer relevant testimony about the  
10 applicable MSL -- MLS bylaws, rules and  
11 regulations.

12           He can also testify as to whether the  
13 subscriber fees that were assessed to Ann Prewitt  
14 on behalf of Kim Wade for the months of July and  
15 August of 2009, which are at issue here, were  
16 actually waived or whether they were paid.

17           He can also speak to whether or not  
18 Ms. Prewitt was reprimanded under the MLS rules  
19 and regulations for failing to timely notify MLS  
20 of the change of status of Mr. Wade, which is a  
21 violation of the MLS rules, and it speaks to  
22 whether or not Mr. Wade had the authority to use  
23 the MLS system and whether that authority, in  
24 fact, had been paid for by Ann Prewitt.

25           And so it is our opinion that it is

1 imperative that he is here and that this hearing  
2 should be rescheduled until such time as he can be  
3 here.

4                   As for Mr. Sartin and Mr. Morrow,  
5 they are the attorneys that facilitated the  
6 closing. There were some issues that dealt with  
7 Mr. Eubanks regarding that -- regarding that  
8 closing and his reluctance to pay the commission  
9 that was owed to Mr. Wade. And it is during that  
10 transaction that those attorneys actually drafted  
11 a release.

12                   And Mr. Eubanks actually sent you  
13 guys -- sent the Commission a letter at some point  
14 withdrawing these charges. He signed a release  
15 saying that he was satisfied with the services of  
16 Kim Wade after that was done and then proceeded to  
17 bring these hearings.

18                   So those attorneys are here to --  
19 those attorneys are here to actually impeach the  
20 testimony that we expect Mr. Eubanks to give. And  
21 as such, we believe that these parties are  
22 necessary and need to be here in the interest of  
23 due process in allowing Mr. Wade to put forth all  
24 the evidence that is necessary to defend himself  
25 in this proceeding.

1                   MR. MAXEY: Just a brief reply, if it  
2 please the Commission.

3                   With regard to Mr. Garland, I say,  
4 again, Ms. Usry is present. She really knows the  
5 functions of the Multiple Listing Service and the  
6 JAR here in the city, and she can speak to every  
7 issue that Mr. -- that Ms. Goliday raised in  
8 defense of this motion.

9                   And with Mr. Sartin and Mr. Morrow,  
10 she brings up these waivers. Those waivers,  
11 those -- I say "those waivers." That waiver is  
12 included in the documents that they have made  
13 available to the Commission. So you have those in  
14 front of you.

15                   And we would contend that the  
16 testimony of any of these three witnesses would be  
17 duplicative of that which is already going to be  
18 before the Commission in the form of witnesses  
19 that have been subpoenaed and are waiting outside  
20 to testify.

21 (Board members confer.)

22                   MR. GILLESS: The Chair will sustain  
23 Mr. Maxey's motion to this, and we order this  
24 proceeding to move forward.

25                   MR. MAXEY: Just for the record, can



1 we have this Motion to Quash made a part of the  
2 record?

3 (EXHIBIT NO. 1 WAS MARKED FOR THE RECORD.)

4 MS. GOLIDAY: In the same vein, we'd  
5 just like the response to the motion to also be  
6 made a part of the record.

7 (EXHIBIT NO. 2 WAS MARKED FOR THE RECORD.)

8 MR. MAXEY: Mr. Chairman, the rule  
9 will be invoked, according to the request of  
10 Ms. Goliday on behalf of Mr. Wade. So that means  
11 that all the witnesses that are not testifying  
12 will have to remain outside the hearing room until  
13 they testify or, otherwise, are released to come  
14 in and hear the testimony.

15 So we're prepared to go forward with  
16 the proof. And we would call as our first witness  
17 Jim King, who is the investigator with the  
18 Mississippi Real Estate Commission.

19 Would you swear him in, please.

20 JIM KING,

21 having been first duly sworn,  
22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. MAXEY:

25 Q. Would you state your name for the

1 record, please.

2 A. Jim King.

3 Q. And where do you work?

4 A. Mississippi Real Estate Commission.

5 Q. What position do you work there?

6 A. Chief investigator.

7 Q. How long have you been the chief

8 investigator?

9 A. Two years, as of this month.

10 Q. Did you receive a sworn statement of

11 complaint from a John Eubanks against a Kim Wade?

12 A. I did. In November of 2009.

13 Q. And do you have that in front of you?

14 A. I do. With his sworn statement, also

15 there is an MLS printout, an agency disclosure

16 statement, an exclusive listing agreement, and the

17 contract for sale, the purchase of sale.

18 Q. And was that complaint in the proper

19 form that the Commission prescribes?

20 A. It was.

21 MR. MAXEY: We would like that, along

22 with the attachments, made an exhibit to the

23 testimony of this witness.

24 And, Ms. Goliday, you certainly can

25 look at any of these as we go.

1           I would like to say for the record  
2   that Mr. Wade has been given opportunity to review  
3   the entire investigative file ahead of this  
4   hearing. Several times, actually. And, I assume,  
5   has taken advantage of that.

6           But in any event, you may look at any  
7   of these documents as they're introduced into  
8   evidence.

9           So would you let Ms. Goliday look at  
10 those?

11         (EXHIBIT NO. 3 WAS MARKED FOR THE RECORD.)

12           MS. GOLIDAY: (Reviews document.)

13           MR. MAXEY: Ms. Goliday, do you have  
14 any objection of us going --

15           MS. GOLIDAY: Hold on one second.  
16 (Reviews document.)

17 MR. MAXEY, CONTINUED:

18         Q.       Mr. King, what is the proper  
19 procedure that the Commission follows once it  
20 receives a sworn statement of complaint?

21         A.       Once we receive the complaint, what I  
22 do is, I take the complaint and read over it and  
23 try to understand the complaint, the best I can.  
24 If there's any doubts in my mind, I'll call the  
25 complainant back and clear up any

1 misunderstandings I may have.

2           After which, I make copies of the  
3 complaint and all documentation that comes in.  
4 And I send these copies to the respondent, at  
5 which time they're given ten working days in which  
6 to respond to the Commission in writing.

7           Q.       Did you follow that procedure in this  
8 case?

9           A.       I did.

10          Q.       And to whom did you notify in  
11 response to the complaint?

12          A.       In the initial complaint, Melissa  
13 Reese, Kim Wade, Ronny Glen Richardson, and Edwin  
14 Blare Marble.

15          Q.       Now, do you have a copy of the notice  
16 that you gave them?

17          A.       I do.

18          Q.       Is that just in the form of a letter?

19          A.       It is.

20                 MR. MAXEY: I would like to make that  
21 the next exhibit to his testimony, please.

22                 (EXHIBIT NO. 4 WAS MARKED FOR THE RECORD.)

23                 MR. MAXEY, CONTINUED:

24          Q.       Did you, in fact, receive a response  
25 from any of the respondents at that point?

1           A.       On December the 11th, I received a  
2 response from Mr. Kim Wade. It's stamped -- we  
3 stamped it December the 11th. With his response  
4 is a contract for sale or purchase, an exclusive  
5 listing agreement, property conditions disclosure  
6 statement, and the agency disclosure.

7                   MR. MAXEY: Let's have that made the  
8 next exhibit.

9           (EXHIBIT NO. 5 WAS MARKED FOR THE RECORD.)

10          MR. MAXEY, CONTINUED:

11           Q.       Did any of the other respondents send  
12 you a reply?

13           A.       Melissa Reese responded to me on  
14 December the 8th of 2009.

15           Q.       And was it an adequate response?

16           A.       I did not think so. It was a very  
17 short response.

18                   MR. MAXEY: Let's have that made the  
19 next exhibit as well.

20          (EXHIBIT NO. 6 WAS MARKED FOR THE RECORD.)

21          MR. MAXEY, CONTINUED:

22           Q.       And what, if anything, did you do  
23 following that?

24           A.       Following that, I had -- sent a  
25 letter of notification to the complainant,

1 Mr. Eubanks, that I had received a response from  
2 Melissa Reese. And I have a copy of that letter  
3 here.

4 MR. MAXEY: Please admit that and  
5 mark it as the next exhibit, please.

6 (EXHIBIT NO. 7 WAS MARKED FOR THE RECORD.)

7 MR. MAXEY, CONTINUED:

8 Q. And did Mr. Eubanks reply to that?

9 A. He did. On a letter December the  
10 11th that we received on December the 15th, I have  
11 a reply from Mr. Eubanks on that letter.

12 MR. MAXEY: Would you please mark  
13 that as the next exhibit.

14 (EXHIBIT NO. 8 WAS MARKED FOR THE RECORD.)

15 MR. MAXEY, CONTINUED:

16 Q. Were you following this procedure to  
17 collect the evidence from all of the parties?

18 A. Yes, sir.

19 Q. And so it's this back-and-forth where  
20 you make everything available to each party?

21 A. That's correct.

22 Q. And did you receive a further reply  
23 from any of the respondents?

24 A. I got an additional response from  
25 Mr. Wade, the letter dated December the 30th.

1 It's a response with -- also, it has an agency  
2 disclosure statement attached to it.

3 Q. And before you leave that, was  
4 Mr. Wade cooperating in furnishing the documents  
5 that you requested?

6 A. Yes, sir.

7 Q. Okay.

8 MR. MAXEY: Let's have that made the  
9 next exhibit.

10 (EXHIBIT NO. 9 WAS MARKED FOR THE RECORD.)

11 MR. MAXEY, CONTINUED:

12 Q. Do you have further documents in  
13 response to your request?

14 A. I have a second response from Melissa  
15 Reese. It's dated January the 17th of 2010. We  
16 have -- we received it on January the 19th. It is  
17 a more lengthy response.

18 MR. MAXEY: Let's have that marked  
19 the next exhibit, please.

20 (EXHIBIT NO. 10 WAS MARKED FOR THE RECORD.)

21 MR. MAXEY, CONTINUED:

22 Q. What further investigation did you  
23 do?

24 A. Well, once I received that letter, I  
25 made copies of it and sent a notification letter

1 to John Eubanks on January 20th, notifying him  
2 that I had received a second response from  
3 Ms. Reese. And I have a copy of the letter here.

4 MR. MAXEY: Please mark that the next  
5 exhibit to this witness's testimony.

6 (EXHIBIT NO. 11 WAS MARKED FOR THE RECORD.)

7 MR. MAXEY, CONTINUED:

8 Q. Did you have further documents in  
9 your investigation?

10 A. I did. After that, I had two -- two  
11 follow-up responses from Mr. Eubanks. One is  
12 dated January 16th of 2010, and then a second one,  
13 which is dated January the 22nd, 2010, in follow  
14 up to her response -- to her response.

15 Q. And who -- who is that from?

16 A. That's from John Eubanks.

17 MR. MAXEY: Make that the next  
18 exhibit to this witness's testimony.

19 (EXHIBIT NO. 12 WAS MARKED FOR THE RECORD.)

20 THE WITNESS: That's the one dated  
21 January 16th. This one is dated. . .

22 MR. MAXEY, CONTINUED:

23 Q. And the next one?

24 A. This response, from Mr. Eubanks, is  
25 dated January the 22nd.



1                   MR. MAXEY: Mark that the next  
2 exhibit, please.

3           (EXHIBIT NO. 13 WAS MARKED FOR THE RECORD.)

4 MR. MAXEY, CONTINUED:

5           Q.       Did you have any other documents in  
6 the course of your investigation?

7           A.       No. No responses from them at that  
8 time. I contacted -- talked with Sallie Plumpp at  
9 JAR/MLS and asked her about the status of  
10 Mr. Wade. She sent me a copy of the MLS listing  
11 and also told me that he had left Ann Prewitt's on  
12 June 15th.

13          Q.       Let me ask you, before you answer it  
14 that way, would you -- would you tell the  
15 Commission what caused you to contact the Jackson  
16 Association of Realtors/Multiple Listing Service  
17 in connection with your investigation?

18          A.       Well, there seemed to be a problem.  
19 Mr. Eubanks did not think Mr. Wade was a member of  
20 the JAR/MLS, and he felt like that he was  
21 misrepresenting himself in -- on the contract by  
22 stating he was a member of the association. At  
23 which time, that caused me to call them to try to  
24 determine this.

25          Q.       The Commission has no responsibility

1 for the Association of REALTORS, does it?

2 A. No, sir.

3 Q. And so this was just a further  
4 inquiry --

5 A. It was.

6 Q. -- with regard to your investigation?

7 A. That's correct.

8 Q. And did you receive a response?

9 A. I did from Sallie Plumpp. It was  
10 just a multiple listing sheet. It shows that  
11 Melissa Reese -- well, it actually shows Prestige  
12 Realty Investment entered this into the MLS with  
13 Melissa Reese as the principal broker of Prestige.  
14 It also has the owner Kim Eu- -- I'm sorry, the  
15 owner, Eubanks's name. Owner's phone number is --  
16 apparently, it's Mr. Wade's cell phone number.

17 Q. And was that just represented to you  
18 by Ms. Plumpp?

19 A. It was.

20 MR. MAXEY: Okay. Let's have her  
21 response then marked as the next exhibit to this  
22 witness's testimony.

23 (EXHIBIT NO. 14 WAS MARKED FOR THE RECORD.)

24 MR. MAXEY, CONTINUED:

25 Q. Did you conclude your investigation?

1           A.       Pretty much I did. And we -- we  
2 reviewed the case -- well, actually, I did. We  
3 reviewed the case with you, as legal counsel, and  
4 Mr. Praytor, and at which time, it was determined  
5 that a formal complaint would be issued against  
6 Kim Wade for misrepresentation.

7           Q.       And do you have a copy of that  
8 complaint?

9           A.       I do.

10                   MR. MAXEY: Let's make that the next  
11 exhibit.

12       (EXHIBIT NO. 15 WAS MARKED FOR THE RECORD.)

13 MR. MAXEY, CONTINUED:

14           Q.       Was a formal complaint served on  
15 Mr. Wade?

16           A.       It was. He came to my office and  
17 signed it.

18           Q.       Did you receive any requests from  
19 Mr. Wade concerning your investigation and your --  
20 did he seek to look at the documents in the  
21 investigative file?

22           A.       Not at that particular time.

23           Q.       Did he at any time after that?

24           A.       I've offered to him to be able to  
25 look at anything I had in here, other than my

1 notes and my narrative here. And he did come up  
2 here Friday afternoon and made copies of some  
3 stuff.

4 Q. From the file?

5 A. From the file, right. Yeah.

6 Q. Okay. And do you have any -- has he  
7 submitted any formal requests for copies or  
8 documents or witnesses to the Commission?

9 A. He has.

10 Q. And have you responded to those?

11 A. We have. We had a request for  
12 issuance of subpoenas and hearing testimony  
13 document production and inspection of  
14 investigative file maintained by the Mississippi  
15 Real Estate Commission. I have a copy of that.

16 Q. Okay. And did you serve -- how many  
17 witnesses were requested? Was it nine?

18 A. Nine witnesses and -- well, there's  
19 ten witnesses in all, but nine witnesses -- nine  
20 witnesses that he requested.

21 Q. And did you serve those subpoenas as  
22 requested?

23 A. I did.

24 Q. And did it include a request for the  
25 documents that he had requested?

1           A.       It did.

2           Q.       And is that in accordance with the  
3 procedures that the Commission's statutes provide?

4           A.       Yes.

5           Q.       And do you have a copy of that  
6 request for subpoenas?

7           A.       Yes, sir.

8                   MR. MAXEY: Let's have that made an  
9 exhibit, please.

10       (EXHIBIT NO. 16 WAS MARKED FOR THE RECORD.)

11   MR. MAXEY, CONTINUED:

12       Q.       Mr. King, did Mr. Wade request  
13 discovery of the documents and witnesses ahead of  
14 the hearing?

15       A.       He did.

16       Q.       And did he do that by formal request?

17       A.       Yes, sir, he did.

18       Q.       And did you communicate your response  
19 to him to that?

20       A.       Say it one more time, now.

21       Q.       Well, did you communicate a response  
22 to him?

23       A.       Yes.

24       Q.       And what was that response?

25       A.       That I have served the subpoenas and

1   that I had to -- served the subpoenas on the  
2   individuals and also the subpoena duces tecum for  
3   the property documents.

4           Q.       Documents, yes, sir.

5           A.       Right.

6           Q.       And did you refer that to the  
7   counsel, to me, for response to Mr. Wade?

8           A.       All e-mail responses that I received,  
9   I referred all of that to you as legal counsel.

10          Q.       And was Mr. Wade informed through  
11   counsel that there is not discovery, as with  
12   courts, available to respondents before the  
13   Mississippi Real Estate Commission?

14          A.       Yes, sir.

15          Q.       Okay.

16                   MR. MAXEY: Well, let's have that  
17   request made an exhibit to the testimony of this  
18   witness.

19       (EXHIBIT NO. 17 WAS MARKED FOR THE RECORD.)

20   MR. MAXEY, CONTINUED:

21          Q.       Did you have any other requests from  
22   Mr. Wade?

23          A.       On the -- April the 1st, I have a  
24   motion by Mr. Wade to dismiss the complaint  
25   against him.

1 Q. Yes.

2 MR. MAXEY: Let's mark that as an  
3 exhibit as well.

4 (EXHIBIT NO. 18 WAS MARKED FOR THE RECORD.)

5 MR. MAXEY, CONTINUED:

6 Q. Did Mr. Wade file any other requests  
7 or motions with the Commission?

8 A. On April the 30th, I have a followup  
9 to request for subpoena production of documents.

10 Q. Did Mr. Wade in that request any  
11 witnesses or documents that hadn't already been  
12 previously requested?

13 A. I'm sorry, say that again.

14 Q. Did he request any documents or  
15 witnesses to be present at the hearing that had  
16 not been already requested by him?

17 A. None that -- none other than what had  
18 already been requested, no, sir.

19 Q. Yes, sir.

20 MR. MAXEY: Let's have that made the  
21 next exhibit.

22 (EXHIBIT NO. 19 WAS MARKED FOR THE RECORD.)

23 MR. MAXEY, CONTINUED:

24 Q. Did Mr. Wade, through his counsel,  
25 file a formal answer to the complaint?

1           A.       They did. And I have a copy of it  
2 here.

3                   MR. MAXEY: Let's make that also an  
4 exhibit to his testimony.

5           (EXHIBIT NO. 20 WAS MARKED FOR THE RECORD.)

6 MR. MAXEY, CONTINUED:

7           Q.       Mr. King, just -- just for the  
8 record, and for the -- to give us all a framework  
9 for this hearing, would you sort of describe,  
10 based on the documents that you received, what you  
11 understood to be the complaint by Mr. Eubanks and  
12 what you understood to be the formal complaint  
13 issued by the Commission against Mr. Wade?

14          A.       My understanding of the complaint was  
15 that when Mr. Eubanks contacted Mr. Wade to list  
16 his property for him, he was under the assumption,  
17 that based on what Mr. Wade told him, that he was  
18 a member of the Jackson Association of  
19 Realtors/Multiple Listing Service. He found out  
20 through some investigation on his own that  
21 Mr. Wade had -- had -- when he left Melissa  
22 Reese's brokerage in -- on June 15th --

23          Q.       Melissa Reese?

24          A.       I'm sorry, Ann Prewitt. Ann Prewitt.  
25 I'm sorry. Ann Prewitt. When he left Ann Prewitt



1 on June the 15th to go out on his own, he obtained  
2 a principal broker's license, which he felt like  
3 separated him from that in that -- he also felt  
4 like that if Mr. Wade was a member of the JAR/MLS,  
5 why would he need to enlist Melissa Reese to list  
6 his property. He said he never had any -- never  
7 had any dealings with Melissa Reese, never signed  
8 any documents with her. And he felt like that the  
9 way this was handled was a total misrepresentation  
10 on the part of Mr. Wade.

11 Q. Thank you.

12 MR. MAXEY: We have no further  
13 questions and tender the witness for  
14 cross-examination.

15 CROSS-EXAMINATION

16 BY MS. GOLIDAY:

17 Q. Mr. King, as a part of your  
18 investigation, you admit that you contacted MLS to  
19 determine the status of Mr. Wade at the time that  
20 Mr. Eubanks's property was listed; is that  
21 correct?

22 A. That's correct.

23 Q. And the person that you talked to was  
24 Sallie Plumpp; is that correct?

25 A. Correct.

1           Q.       And the only document that she's  
2 produced to you as to his status is what is listed  
3 as Exhibit 4, which is a copy of the listing; is  
4 that correct?

5           A.       That's correct.

6           Q.       All right. And you would admit to me  
7 that she has provided you with no written  
8 statement or letter indicating what Mr. Wade's  
9 status was on the date in question; is that  
10 correct?

11          A.       Everything I've got from Sallie  
12 Plumpp was verbal. Nothing in writing.

13          Q.       Okay. So she didn't provide you with  
14 anything in writing?

15          A.       No, ma'am. No, ma'am, she did not.

16          Q.       And what -- I am going to show you --  
17 this Exhibit 14. And if you will indicate on here  
18 for me what it is that indicated to you on this  
19 listing agreement that Kim Wade was not a member  
20 of JAR and MLS.

21          A.       The only thing I can tell you is that  
22 I was -- she told me that the 601-59 -- I'm sorry,  
23 say that again, now.

24          Q.       The question is, what is it on  
25 that -- on that sheet of paper that indicated to

1 you that Mr. Wade was not a member of JAR/MLS?

2 A. There's nothing right on this page  
3 that indicates that to me.

4 Q. And based on the complaint that was  
5 filed as a result of your investigation, the crux  
6 of that complaint is that that particular listing  
7 would have presented false or misrepresented  
8 information about Mr. Wade's status to the  
9 subscribers and participants of MLS; is that  
10 correct?

11 A. If this is true, yes.

12 Q. Okay. And where is that  
13 misrepresentation on that document?

14 A. It's -- like I said, I don't see it  
15 on this document.

16 Q. Okay. And that is the document in  
17 which these charges are based on; is that correct?

18 A. This is the MLS listing. That's all  
19 I can tell you.

20 Q. Okay. So you would agree with me  
21 that there is nothing on this listing that  
22 indicates that Kim Wade is a member of JAR or MLS;  
23 is that correct?

24 A. Not on that paper.

25 Q. Okay. When we look back at this

1 complaint, is it your understanding that one of  
2 the charges against Mr. Wade is that he has used a  
3 copyrighted term or insignia on stationery, office  
4 signs, or in advertising? Is that correct?

5 A. (Nods head affirmatively.)

6 Q. Is that correct?

7 A. It's correct.

8 Q. Okay. Do you have any stationery in  
9 which you are basing your charges on?

10 A. I don't have any stationery.

11 Q. Do you have any office signs that you  
12 are basing your -- this charge on?

13 A. No, ma'am.

14 Q. Okay. So this charge is based solely  
15 on advertising; is that correct?

16 A. That's correct.

17 Q. And the advertising in question is  
18 the MLS listing; is that correct?

19 A. Correct.

20 Q. All right. And you've previously  
21 admitted that there is nothing on this MLS listing  
22 that indicates that Mr. Wade is a member of JAR or  
23 MLS; is that correct?

24 A. His name is not on there.

25 Q. All right. Now, you mentioned that

1   you had some conversations with Sallie Plumpp. Do  
2   you have any written documents that you generated  
3   that summarize your conversation with Sallie  
4   Plumpp?

5           A.       Nothing other than what I typed up.

6           Q.       What was your role in drafting this  
7   complaint?

8           A.       I didn't draft the complaint.

9           Q.       Okay. And this complaint would have  
10   been drafted by the counsel for the board?

11          A.       Counsel and the administrator.

12          Q.       Okay. And that would -- and this  
13   document would have come as a result of your  
14   investigation; is that correct?

15          A.       That's correct.

16          Q.       Now, how long have you been an  
17   investigator here for the board?

18          A.       Two years.

19          Q.       Okay. So when did you start working  
20   here?

21          A.       July of 2008.

22          Q.       Okay. What did you do prior to  
23   working here?

24          A.       I was in criminal investigation law  
25   enforcement.

1           Q.       Okay. So in 2008, you started  
2 working here?

3           A.       Correct.

4           Q.       Was your position chief investigator?

5           A.       Correct.

6           Q.       All right. So you've been the chief  
7 investigator for the last two years?

8           A.       Correct.

9           Q.       Okay. On average, how many  
10 complaints do you investigate on behalf of the  
11 Commission?

12          A.       It's kind of hard to say. Anywhere  
13 from maybe 12, 15 a month sometimes.

14          Q.       Okay. So it would be safe to say  
15 that in the two years you have been here, you have  
16 investigated at least 200 complaints; is that  
17 correct?

18          A.       I don't know about that many, but  
19 close to it.

20          Q.       Okay.

21          A.       Some months are slower than others.

22          Q.       Okay. And during the -- and during  
23 the course of that time, if you can estimate, how  
24 many times have you investigated charges regarding  
25 people or cases similar to this in which there is

1 a question about the status of a member?

2 A. This is the first one.

3 Q. Okay. Have you ever had the occasion  
4 to investigate charges against Ann Prewitt for her  
5 failure to timely send notice about status changes  
6 for agents that have worked for her?

7 A. I have not.

8 Q. Okay. To the best of your knowledge,  
9 has Ms. Prewitt ever been charged by this board  
10 for her failure to abide by the rules that are set  
11 forth by the Commission?

12 A. Not to my knowledge.

13 Q. Now, what is Ms. Plumpp's position  
14 with MLS?

15 A. Employee, is all I know. I don't  
16 know what her title is.

17 Q. Okay. Do you know what her job  
18 description is?

19 A. I don't know anything about that.

20 Q. Okay. During the course of your  
21 investigation, did you have the occasion to talk  
22 to Jo Usry?

23 A. I did.

24 Q. Okay. Do you have any documents that  
25 you generated as a result of your conversation

1 with Ms. Usry?

2 A. Nothing other than what I have  
3 written down.

4 Q. Okay. During the course of your  
5 investigation, did you obtain from MLS a payment  
6 history for Mr. Wade?

7 A. No, ma'am.

8 Q. Okay. During your investigation, did  
9 you obtain from JAR a payment history for  
10 Mr. Wade?

11 A. No, ma'am.

12 Q. Okay. During your investigation, did  
13 you obtain any correspondence that had been had  
14 with Mr. Wade from the date that he left Ann  
15 Prewitt, which was July 15th, '09, regarding his  
16 status at either JAR or MLS?

17 A. Not any --

18 Q. Did you have any correspondence --  
19 let me break up the question. That was a bad  
20 question.

21 Did you request any documents from  
22 JAR, any copies of any letters that may have been  
23 sent, any letters, correspondence, e-mails, et  
24 cetera, that may have been sent to Mr. Wade  
25 regarding his status at JAR?



1           A.       No, I haven't received anything like  
2 that. All I've got to do is go to his file and  
3 tell whenever his license was turned in and  
4 reissued.

5           Q.       Okay. But the question that I'm  
6 asking is specifically about his membership with  
7 JAR.

8           A.       We have nothing to do with JAR.

9           Q.       And I understand that. But the  
10 charges that are pending against him are not  
11 charges that indicate that he was not a member of  
12 the Mississippi -- of the Commission. The charges  
13 indicate that he has advertised himself as a  
14 member of JAR/MLS. And so what I'm asking is, did  
15 you request from JAR any letters or correspondence  
16 that was sent to Mr. Wade regarding his status  
17 after June 15th, 2009?

18          A.       No, ma'am.

19          Q.       Okay. Did you request from MLS any  
20 documents that indicated his status after  
21 June 15th, 2009?

22          A.       I did not.

23          Q.       Okay. So as you sit here today, you  
24 don't have any written documents that addresses --  
25 that address what Mr. Wade's status with JAR was

1 on July 9, 2009?

2 A. All the information I received from  
3 Ms. Plumpp for Ms. Usry was over the phone and me  
4 taking notes as I talked.

5 Q. Okay. And -- but you have no written  
6 documents; is that correct?

7 A. No, ma'am. Yes, that's correct.

8 Q. All right. And you don't have any  
9 documents like that from MLS either, do you?

10 A. I do not.

11 Q. Did you think that was important?

12 A. I did not.

13 Q. Now, about the subpoenas that you  
14 issued, were the documents -- and let's just go  
15 through that subpoena. I think we've got the  
16 documents circulating around.

17 MS. GOLIDAY: Can someone --

18 MR. DEAN: What number, do you know?

19 MS. GOLIDAY: What number that is,  
20 I'm unsure.

21 MR. EDWARDS: We've got a number of  
22 them here. I just don't know which one it is  
23 you're looking for.

24 MS. GOLIDAY: It's the one that has  
25 "request for subpoenas" on it.

1                   MR. EDWARDS: No. 16, if that is  
2 correct.

3                   MS. GOLIDAY: Thank you.  
4 MS. GOLIDAY, CONTINUED:

5           Q.       Looking here at Exhibit 16, which was  
6 the list of request for subpoenas that was sent  
7 over by Kim Wade, and you indicated that you  
8 issued all these subpoenas. Is that correct?

9           A.       That's correct.

10          Q.       All right. Now, for Mr. Sartin,  
11 Attorney Sartin, the documents produced were the  
12 closing file from the sale of the property of  
13 Mr. Eubanks' property; is that correct?

14          A.       Correct.

15          Q.       All right. When did you receive a  
16 copy of these documents?

17          A.       You know, I'm not sure. They -- the  
18 documents were brought up here, and I don't know  
19 what date they were brought up.

20          Q.       Okay. But you did receive these  
21 documents; is that correct?

22          A.       That's correct.

23          Q.       All right. And it's your  
24 understanding that Mr. Sartin and Mr. Morrow  
25 practice together in a law firm; is that correct?

1           A.       That's correct. They were both there  
2 whenever I served the subpoenas.

3           Q.       Okay. Now, Blare Marble, he was  
4 asked to produce a copy of the client file for  
5 Chris Barnes. Was that -- was that produced to  
6 you?

7           A.       No, ma'am.

8           Q.       Okay. So Mr. Marble didn't comply  
9 with his subpoena; is that correct?

10          A.       It's not up to him to produce -- to  
11 give those to me. He's supposed to bring them  
12 with him when he comes to the hearing. That's my  
13 understanding.

14          Q.       Okay. Have you talked to him today?

15          A.       I have not talked to him.

16          Q.       So you don't know if these documents  
17 are present or not; is that correct?

18          A.       I do not know. All I know is, I  
19 served the subpoenas with the information that he  
20 needed to have with him. That's all I know.

21          Q.       Okay. Now, Beverly Hickey, she is  
22 requested to bring a complete copy of the  
23 membership file maintained by JAR and MLS for Kim  
24 Wade. Are you aware of whether she has brought  
25 that document here today?

1           A.       I have -- I have no idea.

2           Q.       Okay. But you did serve the

3 subpoena --

4           A.       I did.

5           Q.       -- on her?

6                   Now, Mr. Garland, who has asked to be  
7 excused today, was requested by subpoena to bring  
8 a copy of the JAR/MLS operating policies and  
9 procedures, bylaws, code of ethics, and any  
10 correspondence sent to or received from John  
11 Eubanks regarding Kim Wade or the sale of his  
12 home, which is in question here, and any  
13 correspondence that was sent to him. And  
14 Mr. Garland is not here today. Do you know  
15 whether he produced those documents?

16          A.       I don't know.

17          Q.       Okay. Have you talked to him about  
18 these documents?

19          A.       I told him -- when I served the  
20 subpoena, I just advised him he was supposed to  
21 bring the documents with him.

22          Q.       Did he at any point call you and  
23 inform you that he was not going to make these  
24 documents available?

25          A.       He didn't.

1           Q.       You would agree with me, that if  
2 he -- if he failed to produce these documents and  
3 he's not here, that he is in -- in essence, in  
4 violation of the subpoena that you issued to him;  
5 is that correct?

6           A.       That isn't my call. But, normally,  
7 when you're subpoenaed to come to a court for any  
8 reason, and you don't come, you're in contempt,  
9 unless otherwise excused.

10          Q.       Okay. Now, a subpoena was also  
11 issued to John Eubanks to bring a complete copy of  
12 any and all documents related to his employment  
13 relationship with Kim Wade, the sale and lease of  
14 the subject property, and any correspondence that  
15 went between he, JAR/MLS, or this commission. Are  
16 you aware of whether Mr. Eubanks has produced  
17 those, has these documents with him today?

18          A.       I would think so. I saw him sitting  
19 out there with a briefcase. So I'm assuming.  
20 That's just an assumption, that he has the  
21 documents with him. I don't know that, though.

22          Q.       Okay. Now, as the investigator, I  
23 want to make sure that we are clear about the  
24 charge that we're on -- we're here today about.  
25 Based on your understanding -- based on your

1 investigation and your understanding of the  
2 complaint, today we are here about a  
3 misrepresentation that was allegedly made by  
4 Mr. Kim Wade using the MLS system; is that  
5 correct?

6 A. Correct.

7 Q. Are there any other charges that are  
8 pending against him?

9 A. No, ma'am.

10 Q. All right.

11 MS. GOLIDAY: That's all the  
12 questions I have.

13 MR. MAXEY: We have no questions on  
14 redirect and ask that this witness to be excused.  
15 We would call our next witness, Jo Usry.

16 MS. GOLIDAY: Can we take, like, a  
17 two-minute break?

18 MR. GILLESS: Sure.

19 (OFF THE RECORD.)

20 MR. GILLESS: Let's proceed.

21 MR. MAXEY: We call our next witness,  
22 Jo Usry.

23 JO USRY,  
24 having been first duly sworn,  
25 was examined and testified as follows:

1 DIRECT EXAMINATION

2 BY MR. MAXEY:

3 Q. What is your name?

4 A. Jo Usry.

5 Q. And what is your employment?

6 A. Jackson Association of REALTORS. I'm  
7 executive officer.

8 Q. And how long have you been in that  
9 position?

10 A. Two and a half years.

11 Q. Would you describe your  
12 responsibilities as the administrative officer for  
13 Jackson Association of REALTORS?

14 A. Yes. We are a trade association for  
15 real estate licensees who have chosen to join our  
16 association to derive certain benefits, and we  
17 administer those benefits -- I have a staff of  
18 eight, and we administer benefits to realtors who  
19 join our association, licensees who join our  
20 association to become Realtors.

21 Q. Is one of the benefits that the JAR  
22 provides its members is the opportunity to join  
23 the Multiple Listing Service?

24 A. Yes. The principal brokers can.

25 Q. And would you describe -- it's a good



1 time to sort of describe how the principal  
2 brokers -- well, how the whole Multiple Listing  
3 Service works from the membership point of view.

4 A. Once a principal broker of a company  
5 has joined the Jackson Association of REALTORS,  
6 and has come by name a designated Realtor, they  
7 then may join the MLS service as the MLS  
8 participant.

9 If that particular designated  
10 realtor, who is now an MLS participant, has agents  
11 that work -- that are affiliated with that  
12 company, those agents have access to MLS through  
13 that MLS participant. They have -- they are  
14 called subscribers. The participant is the member  
15 of MLS. The agents affiliated with that  
16 particular participant and broker have use of MLS  
17 through their principal broker, the participant.

18 Q. If you are a member of the Jackson  
19 Association of REALTORS, are you automatically a  
20 member of the Multiple Listing Service of Jackson?

21 A. No.

22 Q. That is a separate organization?

23 A. Yes, it's a separate company. It's  
24 a -- MLS is a wholly-owned subsidiary --  
25 subsidiary company owned by the Jackson

1 Association of REALTORS, but they're completely  
2 separate organizations. A person can choose to  
3 become a Realtor, who might do the type of real  
4 estate that they don't need multiple listing. So  
5 they could be a Realtor without belonging to MLS.

6 Q. Do you know Melissa Reese?

7 A. I do.

8 Q. And do you know Kim Wade?

9 A. I do.

10 Q. Have you reviewed the membership  
11 records of Kim Wade in the Jackson Association of  
12 REALTORS and the Multiple Listing Service?

13 A. Yes, I have.

14 Q. And what did you find?

15 A. Kim has been a Realtor with the  
16 Jackson Association of REALTORS for several years.  
17 He has been associated with different principal  
18 brokers over those years. And although he was a  
19 Realtor in each of those companies, he had access  
20 to MLS through each of those principal brokers.

21 Q. Now, did he switch -- switch  
22 principal brokers on occasion?

23 A. Yes. Yes.

24 Q. Did he ever become a principal  
25 himself with the Multiple Listing Service?

1           A.       No.

2           Q.       And is that true to date?

3           A.       Yes.

4           Q.       If he represented in any way that he  
5 was a member of Multiple Listing Service on his  
6 own, would that be true or false?

7           A.       Repeat that, if you don't mind.

8           Q.       If he represented at any time that he  
9 was a member of Jackson Association of REALTORS,  
10 that he was a member of Multiple Listing Service  
11 as a principal, would that be true?

12          A.       As a principal, no, that would not be  
13 true, as a principal. A lot of our MLS  
14 subscribers use the term "member" when they're  
15 really not the member. The word is often used by  
16 subscribers who have access to MLS who are  
17 actually not the member. The member is the  
18 principal of the company who has applied for, paid  
19 the fees to join.

20          Q.       Based on your review of the records,  
21 was Mr. Wade a member of Multiple Listing Service  
22 of Jackson on July 5, 2009?

23          A.       No.

24          Q.       Give me just a second, please, ma'am.  
25                   Based on the document that's been

1 admitted as Exhibit 3, which was the complaint by  
2 a John Eubanks to the Commission, which is the  
3 subject of this hearing, I'll show you a document  
4 that he attached to his complaint -- sworn  
5 complaint, and ask you if you can recognize that  
6 as a document published by the Multiple Listing  
7 Service?

8 A. Yes, it is what we refer to as an MLS  
9 printout of a property that has been entered into  
10 MLS.

11 Q. And can you tell the Commission, from  
12 reading that, who was represented as the principal  
13 member of Multiple Listing Service?

14 A. Prestige Realty and Investment is the  
15 listing company. The listing agent is Melissa  
16 Reese.

17 Q. Okay. Now, I'll show you a --  
18 another document that was attached to the  
19 complaint by Mr. Eubanks, and ask you if you can  
20 recognize that as a document that is published by  
21 the Association of REALTORS?

22 A. Yes. This is a listing agreement  
23 that is made available through the Mississippi  
24 Association of REALTORS, the state realtor  
25 association, who has a library of standard forms

1 available to its members. Not mandatory but  
2 available for use. And this is one of those  
3 documents. This is a listing agreement in MAR's  
4 standard library -- standard forms library.

5 Q. May I see that?

6 If you would look at paragraph 3 of  
7 that form, and I'll ask you if you will just read  
8 that and -- can you -- can you identify that  
9 listing agent there is Kim Wade?

10 A. Well. . .

11 Q. Not in paragraph 3, of course.

12 A. Well, let me look at the back. Yes,  
13 the listing broker is indicated as Kim Wade. And  
14 paragraph 3 is the multiple listing clause that  
15 indicates, "Broker is a participant of the," and  
16 then there is a blank. And if someone is a member  
17 of MLS, it is inserted in this blank. And this  
18 has "JAR" inserted in the blank.

19 Q. And does it also go further in the  
20 printed and indicate that listing agent or listing  
21 broker is a member of Multiple Listing Service?

22 A. Broker is a participant of the  
23 JAR/Multiple Listing Service, and this listing  
24 information will be provided to the MLS to be  
25 published and disseminated to its participants.

1           Q.       Under the rules and regulations of  
2 the JAR/Multiple Listing Service, under which you  
3 operate and Mr. Wade operated at the time he was a  
4 member of JAR, is that representation accurate?

5           A.       It was not accurate on the day this  
6 listing was taken.

7           Q.       Yes.

8           A.       It would have been -- it would have  
9 been accurate prior to the time he left his  
10 principal broker who was a participant. He had  
11 access to this form as a Realtor on that day.

12          Q.       Okay.

13          A.       Okay. But the insertion of JAR in  
14 that blank was not an accurate representation.

15          Q.       You were subpoenaed to come to this  
16 hearing, were you not?

17          A.       Yes.

18          Q.       And the subpoena provided that you  
19 were to bring with you certain documents that were  
20 set out in the subpoena?

21          A.       Yes.

22          Q.       And did you bring those documents  
23 with you?

24          A.       I did.

25          Q.       Okay. In the sequence of Mr. Wade's

1 affiliation with brokers, are you aware that  
2 Mr. Wade was affiliated at one time with an Ann  
3 Prewitt, who was a broker and member of JAR?

4 A. Yes.

5 Q. And can you represent to the  
6 Commission, did Mr. Wade leave the affiliation  
7 with Ann Prewitt?

8 A. Yes. He left the affiliation of that  
9 broker in the month of August and requested that  
10 the real estate commission reissue his license to  
11 himself as principal broker.

12 Q. You said August. Was it --

13 A. Oh, I'm sorry. I'm sorry. I'm  
14 sorry. I believe that was -- I'm sorry. That was  
15 in June. I believe that was in June.

16 Q. Of 2009?

17 A. I'm sorry, yes. June of 2009 is when  
18 that transaction he was affiliated with Ann  
19 Prewitt and then had the real estate commission  
20 reissue his license to Kim Wade Real Estate also  
21 in the month of June.

22 Q. Did he have a grace period between  
23 the time he left Ms. Prewitt and the time he  
24 assumed his own principal brokerage that -- to  
25 become affiliated with the Jackson Association of

1 REALTORS?

2           A.       Yes. There is a 30-day period from  
3 which a person leaves one company and goes to  
4 another where his Realtor benefits remain intact.  
5 Realtor benefits are the use of the Realtor  
6 trademark, the resources available from the local  
7 state and national levels. However, Realtor  
8 benefits do not include MLS participation. So he  
9 was a Realtor from the day he left Ann Prewitt  
10 for -- for a 30-day period.

11          Q.       Okay. Since he left Ann Prewitt  
12 where he was a subscriber and legally under MLS  
13 regulations and rules, had -- had access to the  
14 Multiple Listing Service --

15          A.       Yes.

16          Q.       -- has he had access to the Multiple  
17 Listing Service since then?

18          A.       He did. From the time he left the  
19 affiliation of Ann until the time that we were  
20 notified that he was no longer associated with  
21 her, which was the August date that I've  
22 mistakenly referred to earlier. So from June to  
23 mid-August, he had use of MLS, because we did not  
24 know that he was no longer there.

25          Q.       Was he legally able to do that under



1 the MLS rules and regulations?

2 A. No.

3 MR. MAXEY: We have no further  
4 questions and tender this witness for  
5 cross-examination.

6 MS. GOLIDAY: Now, I know somebody  
7 mentioned lunch. Is this a good place to break,  
8 or do you want to go on through? Because I've got  
9 a while.

10 MR. STEDMAN: Let's go.

11 CROSS-EXAMINATION

12 BY MS. GOLIDAY:

13 Q. Now, you said you've been the  
14 executive director of both JAR and MLS?

15 A. Yes.

16 Q. For two and a half years?

17 A. Since the beginning of 2008. January  
18 of 2008.

19 Q. What did you do before then?

20 A. I was on staff at the Mississippi  
21 Association of REALTORS.

22 Q. Okay. So you worked exclusively for  
23 the Mississippi Association of REALTORS?

24 A. Yes.

25 Q. How long were you there?

1           A.       Yes.

2           Q.       Okay. And you took this job.

3           A.       Yes.

4           Q.       Was it a better opportunity?

5           A.       Yes.

6           Q.       All right. So, now, when you first  
7 started this job, what training did you receive?

8           A.       None.

9           Q.       Okay. And how did you gain your  
10 knowledge about the bylaws and the rules and  
11 regulations of JAR and MLS?

12          A.       On-site, day-to-day questions from  
13 Realtor members. Just routine acquainting myself  
14 with the governing documents of the association.

15          Q.       Okay. Have you read in its entirety  
16 the bylaws and rules and regulations for both JAR  
17 and MLS?

18          A.       I would hope so. Not at one sitting,  
19 but over the time, I would -- I would say yes.

20          Q.       Okay. Are there any companion  
21 documents that help you interpret the bylaws and  
22 rules and regulations of JAR?

23          A.       I'm not familiar with companion  
24 documents. I'm not sure what you're referring to.

25          Q.       If there is a docu- -- because --

1 well, let me back up.

2                   Is it your understanding that the  
3 bylaws, rules and regulations for JAR and MLS are  
4 based on the national bylaws and rules and  
5 regulations?

6           A.       Yes. We use their model as our -- as  
7 our guide in most cases for each set of bylaws.

8           Q.       Okay. And so what I'm asking is, is  
9 there a book or document that is put out by the  
10 national -- these national associations to help  
11 local boards interpret these model rules,  
12 regulations and bylaws?

13          A.       I'm not sure about the word "help  
14 interpret." NAR has documents. They have model  
15 bylaws that associations may choose to use or not.  
16 I'm not quite sure about help with interpretation.  
17 There's a variety of resources available for  
18 interpretation.

19          Q.       Okay. What are some of those  
20 resources?

21          A.       NAR Staff, their website, resources  
22 available through the National Association of  
23 REALTORS.

24          Q.       It's called NAR Staff?

25          A.       Yes.

1           Q.       Now, as it deals with Kim Wade, did  
2 you have the occasion to refer to the NAR Staff  
3 regarding the particular rules, regulations and  
4 bylaws that are in question in this matter?

5           A.       I'm sorry, do you mind repeating  
6 that?

7           Q.       When you were at some point contacted  
8 by Mr. King regarding the investigation of this  
9 matter, did you confer with NAR Staff?

10          A.       Yes.

11          Q.       You did?

12          A.       Uh-huh (affirmative response).

13          Q.       What sections did you look at?

14          A.       I would have been dealing with NAR  
15 Staff relative to procedures in an upcoming  
16 hearing that did not involve Mr. Wade.

17          Q.       Okay. Well, I guess my question is:  
18 Specifically, I'm trying to figure out at the time  
19 that you were asked to investigate this matter or  
20 look into this matter to determine Mr. Wade's  
21 status, did you refer to NAR Staff to provide you  
22 any guidance?

23          A.       No. No. No, I did not.

24          Q.       Did you prefer -- did you refer to  
25 any other documents other than the bylaws, rules

1 and regulations of JAR/MLS --

2 A. No.

3 Q. -- to make that determination?

4 A. No, I did not.

5 Q. Now, the documents that you were  
6 requested to bring today, do you have them with  
7 you?

8 A. Yes.

9 MS. GOLIDAY: If we could just go off  
10 the record for five seconds and let me look at  
11 these.

12 (OFF THE RECORD.)

13 MR. GILLESS: Let's proceed. Back on  
14 the record.

15 MS. GOLIDAY, CONTINUED:

16 Q. Now, you mentioned that your  
17 knowledge of the bylaws, rules and regulations is  
18 based on your reading of it; is that correct?

19 A. Yes.

20 Q. Okay. And what you've learned in the  
21 two, two and a half years that you have acted as  
22 executive director; is that correct?

23 A. Yes.

24 Q. Have you attended any seminars  
25 regarding the interpretation of the bylaws, rules

1 and regulations?

2 A. I have attended some national  
3 association meetings where MLS rules and regs and  
4 interpretation have been discussed.

5 Q. Okay. Did they provide you any  
6 documents regarding the interpretation of the  
7 rules and regulations?

8 A. No.

9 Q. Did you take any notes regarding what  
10 was said on the rules and regulations?

11 A. No.

12 Q. Okay. Did you use anything that you  
13 learned in your investigation of this matter?

14 A. No.

15 Q. Okay. Now, as you sit here today,  
16 you would agree with me, that as the executive  
17 director, you have superior knowledge of the  
18 bylaws and rules and regulations for JAR and MLS;  
19 is that correct?

20 A. I have knowledge of them, yes.

21 Q. Okay. Is there anyone that works for  
22 JAR or MLS who would have more knowledge than you  
23 have about the bylaws, rules and regulations?

24 A. Possibly. There's some staff that  
25 has been there longer than I have, but the buck

1 stops with me.

2 Q. Okay. So when it comes to issues of  
3 interpreting these bylaws, rules and regulations,  
4 are you the person that the investigators for the  
5 Commission would rely on?

6 A. Yes.

7 Q. Now, considering your knowledge of  
8 these bylaws, rules and regulations, isn't it true  
9 that you were unaware -- unsure of Kim Wade's  
10 status with JAR and MLS on July 9th, 2009?

11 A. Yes, that's true.

12 Q. And you would agree with me, that if  
13 you, as the executive director of JAR and MLS,  
14 had -- was confused at some point about his status  
15 with MLR -- I mean, JAR/MLS, that the agent would  
16 also be confused about it?

17 A. I can't answer that. Most of the  
18 calls I get related to either JAR or MLS rules and  
19 regulations are from our own members. And at the  
20 time that I recall, back in July, the assumption  
21 was that he was. It was just -- that's generally  
22 who I deal with. I very rarely find myself in  
23 conversations with licensees who are not members  
24 of our association.

25 Q. Okay. Now, at some point, it's your

1 understanding that Mr. Wade was working for Ann  
2 Prewitt; is that correct?

3 A. Yes.

4 Q. Or had affiliation with her. And is  
5 it your understanding that he left Ann Prewitt on  
6 or about June 15, 2009?

7 A. Yes.

8 Q. Okay. And that the Commission issued  
9 a license to Kim Wade Real Estate on or about  
10 June 19th, 2009; is that correct?

11 A. Yes.

12 Q. Did you receive any notice from the  
13 Commission regarding Kim Wade Real Estate?

14 A. No.

15 Q. Now, because Mr. Wade was an existing  
16 member of JAR/MLS, his move from Ann Prewitt would  
17 be classified as a status change; is that correct?

18 A. Yes, if he was changing statuses with  
19 the association.

20 Q. Okay. Normally, when an agent  
21 changes their status, back in '09, what -- what  
22 was the procedure for that status change?

23 A. Two things occur when an agent leaves  
24 one company and affiliates with another. The  
25 broker generally sends a status change to us so



1 that we can take that person off of their record  
2 in the association. The agent then completes a  
3 status change with us telling us where they're  
4 going so that we can -- they can get reestablished  
5 with MLS, generally, is the reason why it occurs  
6 quickly, when they're transferring from one  
7 company to the next.

8 Q. Okay. Now, the -- the form that is  
9 filled out by the original broker, do you have a  
10 copy of it?

11 A. I don't know. It may be in that  
12 file.

13 Q. Okay.

14 A. It's dated, I think, August 17th.

15 Q. Okay. Are there two separate forms,  
16 one that would be submitted by the original broker  
17 and one that is actually submitted by the agent?

18 A. No, it's the same form.

19 Q. Okay. So these forms would have the  
20 same information on it; is that correct?

21 A. Uh-huh (affirmative response).

22 Q. And --

23 A. Sometimes a principal broker doesn't  
24 know where someone is going. They only know  
25 they're leaving their affiliation.

1           Q.       Okay. Now, as a matter of custom in  
2 the period that you have been there, isn't it true  
3 that brokers -- the original broker normally  
4 submits this status change form?

5           A.       Yes.

6           Q.       Okay. And the form would actually be  
7 signed by both the broker and the agent; is that  
8 correct?

9           A.       In some cases.

10          Q.       Is that the custom?

11          A.       It's different. There's no --  
12 sometimes it's -- the broker signs it. It depends  
13 on the circumstances under which the person left  
14 that affiliation.

15          Q.       Okay. If it is voluntary, is it not  
16 custom that the broker would send this form over  
17 to you guys?

18          A.       Yes, it is custom. It is.

19          Q.       Okay. And normally -- how long do  
20 they have -- the broker have to get that form to  
21 you?

22          A.       I believe our rules say 30 days.

23          Q.       And what happens to that agent's  
24 membership with JA- -- with -- you would agree  
25 with me that during that period, their

1 relationship with JAR/MLS is in a transition  
2 phase?

3 A. Not MLS. JAR, yes.

4 Q. Okay.

5 A. Not MLS.

6 Q. And so MLS, you say, would not be in  
7 a transition phase?

8 A. No. Now, let me -- let me clarify.  
9 If a person is -- see if I can make this clear.  
10 When an individual joins the Jackson Association  
11 of REALTORS to become a Realtor, they join as a  
12 particular status. If they are the principal  
13 broker, they are joining as a DR, the Designated  
14 Realtor. If they are not the principal broker,  
15 they are joining as a Realtor.

16 That's the status that we're  
17 referring to when we say change in status. It's  
18 changing the status from a principal broker, from  
19 a Realtor to principal, or just changing offices.  
20 A Realtor can simply change offices where there  
21 is -- when they affiliate with the second office,  
22 they're just a subscriber under that particular  
23 broker's MLS. There's no necessity for the agent  
24 to complete a form relative to MLS.

25 When they're changing status from

1 Realtor to Realtor. It's when the status changes  
2 from Realtor to Designated Realtor or principal  
3 that a different process must take place.

4 Q. Okay. Now, where are they advised --  
5 what document advises them of that process?  
6 Because you clearly delineate two categories.  
7 There is a -- there is a status change process  
8 that you go through if you're going from an  
9 existing agency to agency. But if you're going  
10 from an existing agency out to -- on your own,  
11 where is the handout? Where is the document?

12 A. There is not. It's the language  
13 that's in the bylaws that says -- wherever it  
14 discusses change in status. Custom is that people  
15 call us and ask.

16 Q. Okay.

17 A. "I'm changing offices. What do I  
18 need to do?" "I'm getting my broker's license.  
19 What do I need to do?" And the process that I  
20 described to you is described to them when they  
21 call.

22 Q. Okay. But if they don't call, then  
23 you rely on this form that would be submitted by  
24 the existing broker; is that correct?

25 A. Yes. And it's taught in new member

1 orientation when someone comes in as a new member,  
2 but they're only required to take new member  
3 orientation when they first affiliate with the  
4 association.

5 Q. Okay. Now, you -- you agree with me  
6 that Mr. Wade left Ann Prewitt on or about  
7 June 15th, 2009, and based on your prior  
8 testimony, Ms. Prewitt would have then had 30 days  
9 to get this form -- this status change form into  
10 you. Is that correct?

11 A. Uh-huh (affirmative response).

12 Q. All right. So that means that form  
13 would have been done -- due on July 15th, 2009; is  
14 that correct?

15 A. Uh-huh (affirmative response).

16 Q. Did you receive a form from  
17 Ms. Prewitt within that time period?

18 A. No.

19 Q. All right. Is that a violation of  
20 the bylaws, rules and regulations of either MLS or  
21 JAR?

22 A. Not at the moment.

23 Q. It was not a violation at the moment?

24 A. Huh-uh (negative response).

25 Q. Okay.

1           A.       I mean, it -- the bylaws indicate  
2   that they're supposed to let us know within  
3   30 days, but there's no written -- I mean, the  
4   statement is there in the --

5           Q.       Okay.

6           A.       I think it's under -- I think that --  
7   I'm not sure whether that's under status change or  
8   in another place.

9           Q.       All right. I'm looking at the rules  
10   and regulations that were approved by the  
11   membership on March 26th, 2009. So you would  
12   agree with me that these were in effect when this  
13   alleged violation occurred in July of 2009; is  
14   that correct?

15          A.       Yes. I would assume so.

16          Q.       Okay. And here -- I'm citing the  
17   Section 6 under "Service Charges." Do I need to  
18   show you this, or do you know what it says?

19          A.       Under "Service Charges," yes. We  
20   have not been discussing that section, so I'm not  
21   sure -- I don't have that.

22          Q.       Okay. Well, I will represent to you  
23   that it says, "The designated Realtor" -- who in  
24   this case would be Ann Prewitt -- "is required to  
25   notify the service of new licensees immediately

1 through the completion of a licensee status form  
2 and the receipt of a copy of the license --  
3 licensee's wall license. Designated Realtors must  
4 notify the service of all licensee changes,  
5 including but not limited to additions, drops,  
6 transfers, and address changes."

7 All right. That creates a duty for  
8 Ms. Prewitt, doesn't it?

9 A. Yes.

10 Q. Okay. And that would have created a  
11 duty that said she had 30 days from June 15th to  
12 notify your office that Mr. Wade was no longer  
13 with her; is that correct?

14 A. Uh-huh (affirmative response).

15 Q. And you would agree with me that that  
16 is a term and condition that's listed in these  
17 rules and regulations; meaning, it's something  
18 that people are supposed to do?

19 A. Yes, that's right.

20 Q. And if they don't do it, it is a  
21 violation of these rules and regulations; is that  
22 correct?

23 A. Yes.

24 Q. All right. Now, has Ann Prewitt been  
25 cited for this violation by your office?

1           A.        I'm not -- I don't -- do I have to  
2 answer about another member?

3                   MR. MAXEY: No.

4 MS. GOLIDAY, CONTINUED:

5           Q.        Have you considered taking any action  
6 against her for her violation?

7                   MR. MAXEY: Objection. I'm not sure  
8 there's --

9                   THE WITNESS: I can't discuss another  
10 member here.

11 MS. GOLIDAY, CONTINUED:

12           Q.        Okay. But you do agree that this is  
13 a violation? If she didn't do it, it's a  
14 violation; is that correct?

15                   MR. EDWARDS: Just a moment. I just  
16 don't want any confusion about the items that  
17 Ms. Usry brought by the subpoena getting mixed up  
18 with yours. And haven't they now been put on the  
19 floor?

20                   MR. WADE: No. No, those are hers.

21                   MR. EDWARDS: Oh, I'm sorry. Where  
22 did the envelope go of the stuff that Jo had?

23                   MR. WADE: Oh, you are correct. You  
24 are correct.

25                   MR. EDWARDS: Okay. I just -- I



1 didn't want --

2 MR. WADE: Just a moment. Just a  
3 moment. I'll put them -- I've got them.

4 MR. EDWARDS: No, no, no. I just  
5 didn't want them getting mixed up.

6 MR. WADE: Good point.

7 MS. GOLIDAY: I pulled some of them  
8 out to question her.

9 MR. EDWARDS: That's fine. I was  
10 just trying to keep all of that together so there  
11 isn't a question about what she was subpoenaed and  
12 what she brought.

13 MR. WADE: Good point.

14 MS. GOLIDAY, CONTINUED:

15 Q. Now, when you first -- when did you  
16 first learn about Mr. Wade's status change?

17 A. On August 17th, I believe, when we  
18 got the status change form from Ann Prewitt.

19 Q. Okay. And do you know what happened  
20 that caused Ann Prewitt to send that status change  
21 form to your office?

22 A. I do not.

23 Q. At some point, after finding out  
24 about this, you sent Mr. Wade an e-mail; is that  
25 correct?

1           A.       Several.   Several.

2           Q.       Okay.   But, specifically, you sent  
3 him an e-mail on August 17th, 2009; is that  
4 correct?

5           A.       It may be.

6                   MS. GOLIDAY: All right. I would  
7 like to mark this e-mail as an exhibit.

8           (EXHIBIT NO. 21 WAS MARKED FOR THE RECORD.)

9           MS. GOLIDAY, CONTINUED:

10          Q.       All right. Now, are you -- you're  
11 not looking at a copy of it, are you? Because  
12 they have it over here. I will provide you with a  
13 copy.

14                   Would you take a moment and look at  
15 that e-mail and let me know if that is an exact  
16 replica of the e-mail that you sent to Kim Wade on  
17 August 17th, 2009?

18          A.       Yes, I'm sure it is.

19          Q.       All right. Now, you -- in this  
20 e-mail, do you admit today that you represented to  
21 Mr. Wade that, "We don't require you to start from  
22 scratch with upfront fees if you can pay the \$650  
23 within 30 days of Ann turning in your license"?

24          A.       Yes.

25          Q.       All right. And you guys have a set

1 of fees that you use for the services offered  
2 through JAR and MLS; is that correct?

3 A. Yes.

4 Q. I'm going to show you a copy of what  
5 I believe is your fee agreement.

6 MS. GOLIDAY: And I would like to  
7 have it marked as an exhibit here.

8 (EXHIBIT NO. 22 WAS MARKED FOR THE RECORD.)

9 MS. GOLIDAY, CONTINUED:

10 Q. Were those the fees that were in  
11 place back in July of 2009?

12 A. I don't know. I don't see a date on  
13 it. It's changed from time to time. I can't  
14 swear that it was the one that was there at that  
15 time.

16 Q. How could you find that out?

17 A. My membership director, who deals  
18 with this, is in the lobby. It may be that  
19 nothing has changed. I just want to answer you  
20 truthfully, and I can't answer it truthfully  
21 because there's not a date on it.

22 MR. STEDMAN: I don't see the  
23 relevance.

24 MS. GOLIDAY: Well, the relevancy has  
25 to do with the \$650 and how it's calculated. So

1 if you'll give me an opportunity to get the point,  
2 I'll --

3 THE WITNESS: And I'm not the best  
4 person to answer that, anyway, because my  
5 membership director is who quoted the 650 and  
6 who's the person on our staff that determines  
7 fees. I rarely get involved with this. And to  
8 tell you the truth, I could very easily make a  
9 mistake, because this is not what I do on a daily  
10 basis.

11 MS. GOLIDAY, CONTINUED:

12 Q. Okay. So you, yourself, did not  
13 compile this \$650?

14 A. No, I didn't.

15 Q. Okay. Do you know who compiled  
16 this amount for you?

17 A. Most likely my membership director,  
18 Beverly Hickey.

19 Q. Okay. And when she gave you that  
20 number, did you ask her how she calculated that?

21 A. No, I did not.

22 Q. So you don't know what the \$650  
23 covers?

24 A. No.

25 Q. Okay. But when you represented to

1 him that if he would pay -- was it your intent  
2 here to represent to him that if he paid \$650  
3 within 30 days of turning in his lice- -- of Ann  
4 turning in his license, that his membership with  
5 JAR and MLS would remain intact?

6 A. I was representing -- I don't know  
7 how to answer that. I was representing to Kim  
8 here that he needed to come in and join JAR and  
9 MLS, and there is a break in fees if they do that  
10 within 30 days. That's the intent of this e-mail.

11 Q. Okay.

12 A. And the subsequent ones that went  
13 with this. There were several after this, that  
14 said I looked forward to him coming in.

15 The intent of this e-mail was the  
16 request, according to Beverly, that there be a --  
17 some type of payment plan or different payment  
18 schedule. That was the real intent of this  
19 e-mail, is responding to him that that -- of what  
20 that process would be if he wanted to ask the  
21 board for that payment schedule, a different  
22 payment schedule.

23 Q. Now, here, I'm going to -- at some  
24 point in responding to the subpoena, you pulled  
25 his -- Mr. Wade's payment history for MLS; is that

1 correct?

2           A.       Yes. Beverly did. She was  
3 subpoenaed, and those were listed as part of the  
4 documents that she brought. They're all in one  
5 package. Because originally, when this hearing  
6 was scheduled, the other two that were subpoenaed  
7 were not in town. So it's all in one package.

8           Q.       Okay.

9                   MS. GOLIDAY: Well, what I want to do  
10 is mark the MLS fees and JAR dues as a composite  
11 exhibit.

12           (EXHIBIT NO. 23 WAS MARKED FOR THE RECORD.)

13 MS. GOLIDAY, CONTINUED:

14           Q.       All right. Now, looking at the fees  
15 for June -- or the payment that was made in June  
16 of 2009, I think it indicates that there was a  
17 payment for June 2009?

18           A.       Yes.

19           Q.       June 27th, 2009, for \$167; is that  
20 correct?

21           A.       \$165, yes.

22           Q.       Okay. Now, isn't it correct that  
23 when you guys receive payments, it is not a  
24 payment for the month that it is paid in, but it  
25 is a --

1           A.       Yes.

2           Q.       -- it is a payment for the month?

3           A.       Yes.   It's quarterly.

4           Q.       Okay.   So that payment of \$165, what  
5 does it represent?

6           A.       It represented the quarterly MLS fees  
7 that were owed at that time and that Kim did pay;  
8 although, he was not associated with the firm  
9 under which he was paying the fees, and this was  
10 during that time when we did not know he had left.  
11 But he absolute- -- we billed him, like we always  
12 did.   He paid on time, as he always did.

13          Q.       All right.   Have you refunded that  
14 money back to him?

15          A.       No.

16          Q.       All right.   And so you are -- JAR/MLS  
17 is still in possession of that \$167 that was paid  
18 for use of MLS for that summer quarter; is that  
19 correct?

20          A.       Yes.

21          Q.       All right.   Let me see that again.

22                   Now, you would agree with me that you  
23 determined that if he was not lawfully able to use  
24 this service, that he should have been given his  
25 \$165 back.   Is that correct?

1           A.       Not necessarily.

2           Q.       Okay. And because this \$165 paid for  
3 future service; that's correct?

4           A.       Uh-huh (affirmative response).

5           Q.       Right?

6           A.       Uh-huh (affirmative response).

7           Q.       And so if you were going to deny him  
8 future service, would he not be entitled to a  
9 refund?

10          A.       It was never asked for. But he used  
11 the system up -- some of those dates. I don't  
12 know the -- how long in that period of time, but  
13 he did use the service up until August 17th.

14          Q.       And you are saying that because he  
15 used it, you -- you earned this fee; is that  
16 correct?

17                   MR. MAXEY: We're going to interpose  
18 an objection. I think we have allowed a lot of  
19 discussion about fees that were paid under MLS  
20 regulations that really don't have anything to do  
21 with whether or not he was a member of MLS at the  
22 time that he entered into the listing agreement  
23 with Mr. Eubanks. And whether or not he violated  
24 or didn't violate or they violated his rights  
25 under MLS is not relevant to this hearing under



1 this complaint. So we would ask that we -- we do  
2 object to this line of questioning and ask that  
3 she start on another line of questioning.

4 MS. GOLIDAY: Well, but my response  
5 to the objection is, is that she's just admitted  
6 that he's paid for this service. And so we're  
7 here because you guys are indicating that he has  
8 illegally used the service, when, in actuality,  
9 the case law says that when there are charges,  
10 these charges must be related to the services  
11 offered. Okay?

12 He's paid for the services. She's  
13 admitted that he paid for the services. And  
14 you're saying, okay, he paid for the services; we  
15 took his money; we never gave it back, but now  
16 we're going to sanction him because he really  
17 didn't have a right to use it.

18 MR. MAXEY: We'll be glad, I think,  
19 to stipulate that because I think that's the truth  
20 of the matter. But we're objecting on the grounds  
21 of relevance. And the longer we go into that, the  
22 further we get away from the issues that are  
23 before this commission.

24 MS. GOLIDAY: Well, the issues that  
25 come up with the fee is that he paid for it, and

1 he had a right to use the service. And if he had  
2 a right to use the service, then there's no  
3 misrepresentation. So that's how it's relevant.

4 MR. MAXEY: Well, the question we  
5 have put before the Commission is, was he a member  
6 of MLS at the date that he represented that he  
7 was, which was the date that he signed the  
8 listing.

9 MS. GOLIDAY: And this payment --

10 MR. MAXEY: And whether he paid for  
11 it or not is not relevant to that fact.

12 MR. GILLESS: I am going to sustain  
13 his objection because what I'm seeing here is  
14 we're getting in -- we're getting off of the -- of  
15 what we're actually here for with the complaint  
16 that's been filed. So I'm going to sustain his  
17 objection. Let's move on to something else.

18 MS. GOLIDAY, CONTINUED:

19 Q. You would agree with me that when you  
20 received the status change form from Ms. Prewitt,  
21 it was about two months after Kim had already left  
22 her firm?

23 A. From June -- mid-June to mid-August,  
24 yes.

25 Q. Okay. As you sit here today, in your

1 position as the executive director, does Ann  
2 Prewitt have a history of failing to timely submit  
3 status change forms --

4 MR. MAXEY: Objection.

5 THE WITNESS: I have no idea.

6 MS. GOLIDAY, CONTINUED:

7 Q. -- from agents leaving her firm?

8 A. I have no idea.

9 MR. MAXEY: Withdraw the objection.

10 MS. GOLIDAY, CONTINUED:

11 Q. All right. Now, under the JAR rules  
12 and regulations, an agent has 30 days to submit a  
13 status change form to your office; is that  
14 correct?

15 A. I didn't hear the first part of your  
16 question.

17 Q. I said under the JAR rules and  
18 regulations, an agent has 30 days to present a  
19 status change form to you; is that correct?

20 A. Yes, where their benefits remain in  
21 intact on the JAR side as a Realtor.

22 Q. All right. And the rules and  
23 regulations describe that period as a transition  
24 period; is that correct?

25 A. Yes.

1           Q.       Now, I know it's been your previous  
2 testimony that during that transition period,  
3 agents cannot lawfully use MLS. Is that a  
4 correct -- accurate statement of your testimony?

5           A.       If they are not an affiliated with a  
6 subscriber -- I mean, with a participant, yes.

7           Q.       Can you -- can you identify me -- for  
8 me a document that says that, that provides that  
9 information to agents?

10          A.       No.

11          Q.       Can you identify for me a section in  
12 the bylaws and rules and regulations of the  
13 Multiple Listing Service that addresses that? As  
14 specific -- I have a copy of it here if you --

15          A.       I'm going to have to have you to ask  
16 the question again. I'm sorry.

17          Q.       Okay. Can you identify for me in the  
18 bylaws or rules and regulations of MLS, the  
19 section that explains to a Realtor that if they  
20 are leaving -- if they are leaving a broker and  
21 going out on their own, that they are no longer a  
22 member of MLS?

23          A.       No, there is no such document that  
24 says those words. The definition of "MLS  
25 participant" is described in the MLS bylaws.

1           Q.       Okay. Now, at some point, this  
2 became an issue, and you issued a May 19th, 2001,  
3 memo to MLS participants regarding this. Is that  
4 correct?

5           A.       I don't recall.

6           Q.       I mean, 2010.

7           A.       I can't recall.

8           Q.       Okay. Well, what I would like to do  
9 is show it to you and refresh your memory.

10                   MS. GOLIDAY: And I'd also like to  
11 have it marked as an exhibit.

12           (EXHIBIT NO. 24 WAS MARKED FOR THE RECORD.)

13           MS. GOLIDAY, CONTINUED:

14           Q.       All right. Is this an accurate  
15 depiction of the memo that you sent out to MLS  
16 participants regarding licensee status forms?

17           A.       Yes.

18           Q.       All right. And in this form, if we  
19 will go to the section that actually starts,  
20 "Status change issues," would you read that first  
21 sentence for me? The first two sentences.

22           A.       Sure. "When an agent leaves the firm  
23 for any reason, it is the Designated Realtor's  
24 responsibility to notify JAR/MLS staff immediately  
25 through the licensee status forms so that the

1 individual can be removed from the company  
2 roster."

3 Q. Next sentence.

4 A. You want me to continue?

5 Q. Yes.

6 A. "Without receiving the licensee  
7 status form from you, we may not know an agent is  
8 no longer affiliated with your firm and we  
9 continue to provide Realtor and MLS services. The  
10 former agent, who may have an inactive license,  
11 continues to have access to MLS and access to  
12 listed property through the use of their MLS key,  
13 et cetera."

14 Q. All right. That's far enough. Now,  
15 in this document, do you ever communicate to the  
16 MLS participants that these former agents, as you  
17 call them, are illegally or wrongfully using the  
18 MLS service?

19 A. No.

20 Q. Okay. As a matter of fact, you  
21 indicate later on in here, that if they don't  
22 timely do this, they're going to have to pay the  
23 fees associated with their use -- with these  
24 inactive -- I mean, these former agents' use of  
25 MLS; is that correct?

1           A.       I'm sorry, do you mind repeating  
2   that?

3           Q.       Okay. In this -- in this paragraph,  
4   you further indicate to them that if they don't  
5   timely turn that in, that they're going to be  
6   responsible for paying the fees for these agents  
7   that are no longer with them; is that correct?

8           A.       Not this -- let me read what you are  
9   referring to, because I'm not -- I'm not clear on  
10   your question.

11          Q.       Okay.

12          A.       (Reviews document.)

13                 Okay. I'm not sure what your  
14   question about fees when they're no longer with --

15          Q.       Let -- let me rephrase.

16          A.       Okay.

17          Q.       Under the rules and regulations, when  
18   an agent leaves a broker and the broker fails to  
19   timely notify about the leaving, who is  
20   responsible for paying those fees?

21                 MR. MAXEY: Objection. Again, we  
22   object on the grounds that we're dealing with the  
23   question of fees that, I think, the Commission has  
24   already ruled on, that that's not relevant to  
25   whether or not Mr. Wade was a member of the MLS

1 service at the date that he signed the listing  
2 agreement. So the fees, it seems to me, is  
3 something that's irrelevant to this issue.

4 MR. GILLESS: Yeah, I thought we  
5 had -- I thought we had covered that a while ago  
6 when I sustained his objection before. Really,  
7 fees do not have a part of this, as far as I'm  
8 concerned. So I'm going to sustain the objection  
9 again.

10 MR. EDWARDS: If I might, the fees  
11 does not have -- does not necessarily make  
12 qualifications. And at that point, he wasn't  
13 qualified. And so the fact fees were paid or not  
14 paid is irrelevant at this point in time.

15 MS. GOLIDAY: Okay. And I'm assuming  
16 that you've drawn the conclusion -- or the board  
17 has drawn the conclusion that he was not  
18 qualified, and if that is the case, if will  
19 provide for me the documents that indicates that  
20 he was not --

21 MR. EDWARDS: He hadn't met -- he  
22 hadn't done the things necessary to be a  
23 participant. I'm sorry, maybe I -- but that's the  
24 way I understand it.

25 MS. GOLIDAY: You made that ruling



1 based on the evidence that's been presented so  
2 far?

3 MR. EDWARDS: Yes.

4 MR. MAXEY: I think that's all they  
5 can do, is they can rule on the objection based on  
6 the evidence so far.

7 MS. GOLIDAY: Well, but I think if  
8 he's making that statement, it shows that there is  
9 a bias and prejudice towards my client, because he  
10 hasn't even heard all of the evidence. And so to  
11 draw that conclusion says to me that he is not  
12 being impartial in this matter because all the  
13 witnesses have not testified. He is drawing a  
14 conclusion.

15 MR. GILLESS: My ruling is based on  
16 the fact the fees is not what we're here to rule  
17 on. I don't -- the fees, I don't care how much --  
18 what the fees are, how much they are, when they're  
19 paid or anything. That has nothing to do with  
20 what I'm sitting here for today.

21 MS. GOLIDAY: Okay.

22 MR. GILLESS: So I want to get on to  
23 the matter at hand. Let's talk about the things  
24 that are relevant to this case and not talk about  
25 how much fees are and when they're paid and

1    whatever.

2                   MS. GOLIDAY: Well, what I would like  
3   to do is to make sure that -- so that my record is  
4   clear, and if this -- you know, being respectful  
5   of everybody that's here, if this matter is  
6   appealed, I have to preserve my objections.

7                   And at this point, I do have an issue  
8   as to whether the committee is being opened-minded  
9   about the evidence that is being presented based  
10  on the testimony and responses they have given  
11  with regard to these objections. I am making that  
12  objection to preserve the record.

13                  MR. EDWARDS: Can I clarify where I  
14  was coming from? What -- the issue is membership,  
15  and the qualifications or the fees are a separate  
16  issue. And it doesn't -- they're irrelevant on  
17  the members -- on his actual membership at the  
18  point in time of the alleged infraction. That's  
19  what we need to get back to.

20                  MS. GOLIDAY: Okay.

21  MS. GOLIDAY, CONTINUED:

22           Q.       All right. When was the first time  
23  that you indicated to Mr. Wade that he was no  
24  longer a member of JAR?

25           A.       I don't -- I don't remember.

1           Q.       Okay. When was the first time that  
2 you indicated to Mr. Wade that he was no longer a  
3 member of MLS?

4           A.       It was in an e-mail string back and  
5 forth between us, I believe, in December. I'm  
6 really -- I don't recall the dates.

7           Q.       Okay. Well, considering the fact  
8 that you told me that the bylaws don't clearly  
9 address what happens to his membership when he  
10 leaves an existing firm and creates his own, and  
11 that the first time you, as the executive director  
12 for JAR/MLS, informed him of such was December of  
13 2009, you will agree with me that there is no  
14 other written document out there that would have  
15 informed him that he was not a member of MLS?  
16 Would you agree with that?

17          A.       May I correct a statement that I  
18 made? I was having the first e-mail dialogue with  
19 Kim in August, which you used as an exhibit  
20 right -- while ago, about him coming in and making  
21 application for Realtor membership and MLS.

22          Q.       Okay.

23          A.       This was August 17th.

24          Q.       Okay. And so changing my question,  
25 if you're relying on that e-mail , you said that

1 there is no -- you can't point me to a section in  
2 the rules and regulations that would have  
3 instructed him explicitly that he was no longer a  
4 member of MLS when he changed from being  
5 affiliated with Ann Prewitt to going out on his  
6 own, all right, and then you said that there is --  
7 there exists no separate document, no memo, et  
8 cetera, that will be sent out to the agents --

9 A. MLS bylaws and rules, that all of our  
10 members have the obligation of becoming familiar  
11 with.

12 Q. Okay. And could you point to me the  
13 section in there that would have informed him that  
14 he was no longer a member?

15 A. No. The same question -- the way I  
16 answered you the last time, it's in the definition  
17 of what an MLS participant is.

18 Q. Okay. But there is nothing in this  
19 document that instructs him what to do when he --

20 A. No. No.

21 Q. All right. Okay. So based on that,  
22 what other documents are you indicating, outside  
23 of your August 17th, 2009, e-mail would have  
24 informed him that he was no longer a member of  
25 MLS?

1           A.       There are no other documents.

2           Q.       All right. That's what I wanted to  
3 know.

4           A.       Custom is that these take place in  
5 phone conversations when people call us and say,  
6 "What they need to do?"

7           Q.       All right. And what happens when  
8 that conversation doesn't happen?

9           A.       It hasn't happened in my lifetime  
10 here, so I can't -- I don't know.

11          Q.       So -- and because it's never  
12 happened, you don't really know what to do in this  
13 situation, do you?

14          A.       In what situation?

15          Q.       I mean, this happened, because it had  
16 never happened to you, you didn't know what to do;  
17 is that correct?

18          A.       No, that's not correct because -- I  
19 don't know what you mean by I didn't know what to  
20 do.

21          Q.       Well, in these e-mails that you sent  
22 to Kim in December -- and I'm going to produce  
23 them for you. You tell me whether they are  
24 correct or not. Here is an e-mail that's dated  
25 December 12th. Take a look at it and tell me

1 whether that's a true and correct depiction of the  
2 e-mail that you sent to Mr. Wade on December 12th,  
3 2009.

4 MS. GOLIDAY: And I want to mark it  
5 for an exhibit.

6 THE WITNESS: There were some more in  
7 August.

8 MS. GOLIDAY, CONTINUED:

9 Q. Okay. But I'm talking about December  
10 right now.

11 A. Okay. Okay.

12 Q. Take a look at that and make sure  
13 it's true and correct?

14 MS. GOLIDAY: And I want to get it  
15 marked.

16 (EXHIBIT NO. 25 WAS MARKED FOR THE RECORD.)

17 THE WITNESS: (Reviews document.)  
18 Yes. This was pertaining to a completely separate  
19 matter.

20 MS. GOLIDAY, CONTINUED:

21 Q. All right. But in that e-mail, you  
22 indicated to him that he was still a Realtor; is  
23 that correct?

24 A. I sure did.

25 Q. And that meant he was still a member

1 of JAR; is that correct?

2 A. That is referring back to what I said  
3 earlier. Most conversations I have with licensees  
4 over anything are our members. When Kim and I  
5 were talking about this issue, which has nothing  
6 to do with the matter at hand today, in my mind,  
7 I'm talking to a member, because that's all I ever  
8 talk to, is members. So, yes, in this  
9 conversation, I was talking to Kim as if he was a  
10 member of the association and had the ability to  
11 arbitrate with another Realtor.

12 Q. Okay. And because you're the  
13 executive director, he has a right to rely on what  
14 you say; is that correct?

15 A. Uh-huh (affirmative response).  
16 Except that there's a follow-up e-mail to this  
17 that said, "Kim, I'm sorry, I made a mistake."

18 Q. I'm getting -- I'm getting to it.  
19 But I'm saying on the day when you talked to him  
20 on December 12th, 2009, and you sent this e-mail,  
21 he had a right to rely on it?

22 A. Except he also knew that he wasn't.

23 Q. Okay. But based on your position,  
24 didn't he have a right to rely on what is said?

25 A. I think it goes half and half. He

1 had the same rights that I had. I thought I was  
2 talking to a member. He knew he was not one.

3 Q. Okay. So are you representing to me  
4 that you don't want agents and Realtors to believe  
5 what you say?

6 A. Of course I want them to believe what  
7 I say.

8 Q. All right. And because you're the  
9 executive director, it would stand to reason that  
10 they would believe what you say; is that correct?

11 A. Sure. Until I correct it.

12 Q. All right. So on December 12th,  
13 2009, you represented to Kim Wade that he was a  
14 Realtor and a member of JAR; is that correct?

15 A. That is absolutely correct.

16 Q. All right. And then you sent him an  
17 e-mail on December 16th. Let me show it to you.  
18 And I'm going to have it marked. I want you to  
19 tell me whether that's the e-mail that you sent.  
20 And if it is, I would like to have it marked.

21 A. Yes.

22 Q. All right. And in that e-mail you  
23 then told him he was not a member; is that  
24 correct?

25 A. That's correct. Yep.



1           Q.       And that would indicate that you were  
2 confused about his status; is that correct?

3           A.       No.

4           Q.       Okay. So -- so you weren't confused?

5           A.       No, I was not confused at all.

6           Q.       Okay.

7           A.       In the other dialogue, we were  
8 talking about a completely separate matter. My  
9 thought process was in helping a member who -- is  
10 who I generally talk to, with a process.

11                   MR. MAXEY: Let me interrupt you.  
12 You wanted this marked, but it hasn't been marked.

13                   MS. GOLIDAY: Yeah. Okay.

14                   MR. MAXEY: Can I get it marked,  
15 please.

16           (EXHIBIT NO. 26 WAS MARKED FOR THE RECORD.)

17                   MR. MAXEY: That's Exhibit 26.

18                   MS. GOLIDAY: Okay.

19 MS. GOLIDAY, CONTINUED:

20           Q.       And so you would agree with me that  
21 if someone were to take your e-mails at face  
22 value, it would be confusing?

23           A.       I don't know. I can't speak for  
24 someone else.

25           Q.       Okay. But you said that he was a

1 member on the 12th; is that correct?

2 A. I was inferring that he was.

3 Q. Right. And so then you said on the  
4 16th: Oops, I made a mistake, you weren't; is  
5 that correct?

6 A. That's correct.

7 Q. All right. And that would indicate  
8 that at some point there was some confusion?

9 A. No, there was never confusion. I  
10 simply do what I do day in and day out, all day  
11 long, all night long, by e-mail and phone calls,  
12 helping members with processes. And at that point  
13 in time, he had been a member. In my mind, he was  
14 a member.

15 Q. And you expect people to rely on  
16 that; is that correct?

17 A. I sure do.

18 Q. All right. Now, as you sit here  
19 today, what is your understanding of the charges  
20 that have been filed against Kim Wade?

21 A. I have no idea.

22 Q. Did you at any point talk to Mr. King  
23 about this matter?

24 A. No. About today?

25 Q. During his investigation regarding

1 these charges.

2 A. Not that I recall.

3 Q. You never talked to him?

4 A. I talk to Mr. King a lot. I don't --

5 Q. But you don't recall talking to him  
6 about this matter?

7 A. I talked to him a lot in reference to  
8 the subpoena. He came to my office on two  
9 occasions. We talked about the case and the  
10 documents that were being requested, yes.

11 Q. Okay. Did you ever have a  
12 conversation with him about the documents, i.e.,  
13 the bylaws and rules and regulations that you were  
14 using to determine that Mr. Wade was not a member  
15 of MLS on July 9th, 2009?

16 A. I don't recall. Mr. King and I have  
17 had several conversations, and he very well could  
18 have asked me about how MLS and JAR works in  
19 connection with or in opposition to the MLS rules.  
20 We've had several conversations.

21 Q. Okay. Do you recall whether you gave  
22 him any documents that would indicate Mr. Wade's  
23 status?

24 A. No, I did not, other than the  
25 subpoenaed documents.

1           Q.       Okay. What I would like to show you  
2 is a copy of that listing.

3                   MS. GOLIDAY: The MLS listing that  
4 she testified to earlier.

5                   MR. MAXEY: There's one attached to  
6 the complaint. Will that be okay?

7                   MS. GOLIDAY: Yes. Yes.

8 MS. GOLIDAY, CONTINUED:

9           Q.       I want you to look at it.

10          A.       What am I looking at?

11          Q.       The actual MLS listing for the  
12 property owned by Mr. Eubanks.

13          A.       Okay.

14          Q.       All right. Do you know how  
15 Mr. Eubanks got that document?

16          A.       Yes. It was provided by my office.

17          Q.       Okay. And why did you provide that  
18 to him?

19          A.       Because he asked for it.

20          Q.       Okay. All right. Now, did you,  
21 yourself, print that out?

22          A.       No.

23          Q.       All right. Do you know who in your  
24 office printed that out?

25          A.       Yes, I do.

1 Q. Who did that?

2 A. Sallie Plumpp.

3 Q. Do you know from your office who  
4 would have advised Mr. Eubanks that Mr. Wade was  
5 not a member of JAR/MLS?

6 A. I did.

7 Q. Who?

8 A. I did.

9 Q. You did?

10 A. Uh-huh (affirmative response).

11 Q. Okay. Do you recall what day you had  
12 that conversation?

13 A. No. It was the week before  
14 Thanksgiving, somewhere around the 20-something of  
15 November. It was right before Thanksgiving.

16 Q. And what happened that you provided  
17 that information to him?

18 A. As I recall, Mr. Eubanks came into  
19 our office. I was not there. I was at another  
20 location in town and requested to see his -- the  
21 printout of his house as it was in MLS. And my  
22 staff did what they are always instructed to do,  
23 "Contact your listing agent for that information."  
24 He indicated to my staff that he could not get a  
25 return phone call from his agent.

1           Q.       Okay.

2           A.       So based on that information, we  
3 pulled the listing up in MLS. He indicated --  
4 well, of course, the staff asked who he had the  
5 listing with, and he indicated his house was  
6 listed with Kim Wade. And they pulled it up in  
7 MLS by the address and found this document.

8           Q.       Okay. And at any point, did they  
9 contact Mr. Wade to let him know that his client  
10 was calling requesting information?

11          A.       No.

12          Q.       All right. And so that address is  
13 how he actually got the document?

14          A.       Yes.

15          Q.       Now, how did we -- how did you end up  
16 having a conversation with him regarding the  
17 status of Kim Wade?

18          A.       It had to do with -- when we  
19 pulled -- when Sallie pulled this listing for  
20 Mr. Eubanks, who had -- she had already been told  
21 the property was listed with Kim. When she pulled  
22 this, she noted that it was -- that it was listed  
23 with Prestige Properties and Melissa Reese.

24          Q.       Okay. And what day did she actually  
25 pull that? Can you look at that document and

1 tell?

2 A. The 24th. November 24th.

3 Q. All right. And so at some point  
4 after she pulled that, did you -- did you call  
5 Mr. Eubanks, or did he call you?

6 A. I don't -- I don't know. I don't  
7 remember.

8 Q. Okay. All right. And how did you  
9 get into -- end up in a conversation with him  
10 about Mr. Wade's status?

11 A. He wanted to -- when he realized that  
12 his listing was not with Mr. Wade, and he  
13 indicated he did not know Melissa Reese, he then  
14 began asking questions how to -- how to file  
15 complaints. And we entered into that conversation  
16 of what options he had as a consumer --

17 Q. Okay.

18 A. -- to file a complaint.

19 Q. So you instructed him on how to file  
20 a complaint?

21 A. Uh-huh (affirmative response).

22 Q. All right. How did you end up  
23 instructing him or providing him the information  
24 that Kim Wade was not -- as to Kim Wade's status  
25 with JAR and MLS?

1           A.       I don't recall. I just remembered, I  
2 think, at this point -- this was in November. And  
3 I recalled all the dialogue and conversations that  
4 Kim and I had had back in August, and that he had  
5 not come in and reapplied yet. So I was able to  
6 say, "Your property is not listed with Kim Wade.  
7 It's listed with Melissa Reese. Kim is not a  
8 member of JAR or MLS."

9           Q.       Okay. And you were saying that he  
10 was not a member effective in November of '09?

11          A.       Yes.

12          Q.       Okay. All right. And so when you  
13 talked to him, did you qualify whether he was a  
14 member in January, when he entered into that  
15 listing agreement with Mr. Wade? I mean, July.

16          A.       I don't remember. I don't know that  
17 we -- I don't know. I don't remember that.

18          Q.       Okay. So can you see how Mr. Eubanks  
19 would get alarmed based on the information that  
20 you gave him in November?

21          A.       I'm not sure how he interpreted it.  
22 We answered his questions truthfully.

23          Q.       Okay. But you didn't follow up and  
24 address Mr. Wade's status at the time of the  
25 listing agreement , did you?



1           A.       No.

2           Q.       Okay. All right. Now, look at that  
3 listing agreement and tell -- that listing  
4 agreement. I mean, I'm saying -- I'm sorry, I  
5 said listing agreement. That MLS document.

6           A.       Okay.

7           Q.       All right. Tell me on there -- what  
8 on that document misrepresents or represents to  
9 subscribers and participants, and even the people  
10 in your office looking at that, what on that  
11 document represents that Kim Wade is a member of  
12 JAR/MLS?

13          A.       Nothing.

14          Q.       Okay. So looking at that document,  
15 no subscriber --

16          A.       Is this what you're referring to?

17          Q.       Yeah, that's the document I'm talking  
18 about.

19                   Looking at that document, would any  
20 subscriber to MLS conclude that Kim Wade is a  
21 member of -- well, conclude whether or not Kim  
22 Wade is a member of JAR/MLS?

23          A.       No. They would conclude that this  
24 property was listed by Prestige Realty with  
25 Melissa Reese as the listing agent.

1           Q.       All right. But nothing about Kim  
2 Wade on there; is that correct?

3           A.       Huh-uh (negative response).

4           Q.       All right. And that would be the  
5 same to any subscriber looking at that system; is  
6 that correct?

7           A.       I would -- yeah, I would assume.

8           Q.       Yeah. It works for the subscriber  
9 and the participant; is that correct?

10          A.       Yeah. They --

11          Q.       They would see the same document?

12          A.       Yeah.

13          Q.       All right. And you sitting here as  
14 the executive director, you don't even see it on  
15 that document, do you?

16          A.       No.

17          Q.       All right. Okay. You can -- let me  
18 see that for a minute.

19                   Now, this May 19th, 2010, memo that  
20 you wrote and dealt with reminding participants to  
21 turn in their forms on time, why did you write  
22 that?

23          A.       I communicate with our MLS  
24 participants frequently about any issue that might  
25 have come up. There's no -- any one particular --

1 incidents come up all the time that make me want  
2 to communicate with my members and educate them on  
3 certain things.

4 Q. And you do this when you see that  
5 there is a problem?

6 A. I do this routinely.

7 Q. Routinely when there is a problem; is  
8 that correct?

9 A. Or when there's an issue that I want  
10 to bring to the forefront.

11 Q. Okay. And so over the course of the  
12 years that you have been the executive director,  
13 has the issue regarding status and use of MLS by  
14 agents who are changing their status, have you  
15 felt that was an important issue?

16 A. Yes.

17 Q. Okay. And have you thought it was  
18 important enough to write a memo on it?

19 A. Yes.

20 Q. Okay. Where is that -- is this the  
21 only memo that you have written about it?

22 A. I don't -- probably not, because  
23 there have been other instances other than this  
24 where status has been discussed over the time that  
25 I've been there. This is not the only issue.

1 Q. Okay. And --

2 A. There have been others.

3 Q. What -- if you recall, what do  
4 those -- what instructions do those memos give  
5 participants and subscribers about what's supposed  
6 to happen when they change status?

7 A. Only what I wrote in the memo.

8 Q. Okay. And that would be this  
9 May 18th, 2010?

10 A. That was probably the last one on  
11 this subject.

12 Q. Do you know how many you have written  
13 on the subject?

14 A. I do not.

15 Q. Okay. As you sit here today, do you  
16 know whether all of the agents that are in JAR  
17 have been provided with those memos?

18 A. No. Because these were written to  
19 the brokers of the company who have the  
20 responsibility of getting the information down to  
21 their agents.

22 Q. Okay. Do you recall ever writing a  
23 memo that specifically instructs agents what to do  
24 when they change from an existing agency to  
25 becoming an independent broker with regard to

1 their membership in the MLS?

2 A. Yes, I have put reminders in our --  
3 we have a weekly communication, and I have put  
4 those reminders from time to time in that weekly  
5 communication, but I can't give you a date.

6 Q. And what would those reminders say?

7 A. If you're changing from one office to  
8 another, make sure you come to the office, call  
9 the office, make sure you, you know, get your --  
10 your status properly changed. I don't know -- I  
11 don't know the exact wording I would have used.  
12 It's general reminders.

13 Q. Well -- and because I'm trying to  
14 understand. Because earlier you testified that  
15 there didn't exist a document that would tell  
16 people -- that would tell agents what happens with  
17 their MLS stat- -- MLS status if they go from  
18 working for somebody to becoming an independent  
19 broker, and now you're telling me, yeah, there is  
20 a document, but I can't -- I can't remember what  
21 it says.

22 A. When you were referring to  
23 "document," I thought you meant a form of some  
24 type. I send out frequent communications to our  
25 membership as a whole and to our brokers

1 separately, frequently.

2 Q. Okay. Do you recall that whether you  
3 sent any of these out from May 15th to July 9th of  
4 2009?

5 A. I send them every single Tuesday. So  
6 I really -- I can't recall the dates of when that  
7 would have been a subject in our weekly  
8 communication.

9 Q. So as you sit here today, you don't  
10 know if this was a subject during that period of  
11 time or not?

12 A. I do not. I don't remember, no.

13 Q. Okay. Now, I want to show you  
14 another document, and it is an MLS -- what did you  
15 call these again?

16 A. I refer them to as printouts.

17 Q. An MLS printout that -- for a  
18 property that is located at 618 Willow Bay Drive,  
19 Byram, Mississippi.

20 MS. GOLIDAY: And I would like to  
21 have it marked as an exhibit.

22 (EXHIBIT NO. 27 WAS MARKED FOR THE RECORD.)

23 MS. GOLIDAY, CONTINUED:

24 Q. All right. If you will look toward  
25 the bottom of that document in that last little

1 block, what is the infor- -- what is that  
2 information there?

3 A. It's the information where sold  
4 information is put into MLS after a property  
5 sells.

6 Q. Okay. And who does it indicate sold  
7 that property?

8 A. The selling office, Prudential, Ann  
9 Prewitt Realty; selling agent, Kim Wade.

10 Q. All right. As you sit here today, do  
11 you know who put that in there?

12 A. No.

13 Q. All right. If you would -- when was  
14 that done, by your looking at that form?

15 A. I can't -- there's nothing on here  
16 that tells me the entry date. I see the date it  
17 was copied or e-mailed, or whatever, but I don't  
18 see a date that it was entered in MLS.

19 Q. What is the close date that's listed  
20 there?

21 A. Close date, October 19th, 2009.

22 Q. All right. And that block of  
23 information, isn't it normally -- or the custom  
24 is, that's normally put in after a property is  
25 sold?

1           A.       Yes.

2           Q.       All right. And would that go to show  
3 when it -- when it says "listing agent," can you  
4 just type anybody's name for listing agent on MLS?

5           A.       I honestly don't know because I don't  
6 get into MLS routinely.

7           Q.       Okay. So you don't quite know --

8           A.       I really do not.

9           Q.       -- how it functions?

10          A.       I really do not.

11          Q.       Okay. That's fair.

12          A.       I'm sorry.

13          Q.       Now, initially -- or at some point,  
14 Mr. Eubanks came to you regarding his complaint.  
15 That -- we established that that was around  
16 Thanksgiving of '09. Is that correct?

17          A.       Yes.

18          Q.       Okay. And at some point after then,  
19 did he rescind his complaint?

20          A.       No.

21          Q.       He never sent you a document  
22 rescinding his complaint?

23          A.       He never withdrew his complaint with  
24 us, no.

25          Q.       All right. I'm going to show you a



1 letter that he wrote to you that's dated  
2 April 2nd, 2010, and it was in that packet of  
3 information that you provided for me.

4 MS. GOLIDAY: I would like to have it  
5 marked as an exhibit.

6 (EXHIBIT NO. 28 WAS MARKED FOR THE RECORD.)

7 MS. GOLIDAY, CONTINUED:

8 Q. All right. Do you see in there where  
9 he talks about, "I do not intend to withdraw my  
10 complaint"?

11 A. Uh-huh (affirmative response).

12 Q. All right. Do you know why he put  
13 that in there?

14 A. Yes.

15 Q. Okay. Why is that?

16 A. Because there was some other document  
17 that was produced and sent, I believe, to the real  
18 estate commission where Mr. Eubanks signed that he  
19 was withdrawing complaints.

20 Q. Okay. And when he sent the document  
21 requesting that the complaint be withdrawn, what  
22 action did you take regarding this matter?

23 A. I'm sorry?

24 Q. Did you take any action once you --  
25 once you received the document showing he was

1 withdrawing his complaint?

2           A.       No, because it was not to us. We  
3 were copied on something that was sent to the real  
4 estate commission.

5           Q.       Okay. And did you have any contact  
6 with him after he -- you received a copy of what  
7 he sent to the real estate commission?

8           A.       Yes. I called him and asked him.

9           Q.       You called him and asked him?

10          A.       Because we were in the process of  
11 holding a hearing -- of scheduling a hearing.

12          Q.       Okay. So you called him and said  
13 what?

14          A.       I told him I had received a copy of a  
15 notice that went to the real estate commission,  
16 and am I to indicate by that, that he's  
17 withdrawing his complaint with us.

18          Q.       Okay. And what did he say?

19          A.       No.

20          Q.       All right. Is that when he sent you  
21 that letter?

22          A.       Yes.

23          Q.       Okay. Did you have -- did you say  
24 anything else to him during that conversation?

25          A.       I don't recall.

1           Q.       Okay. Who is the person in your  
2 office that would have superior knowledge as to  
3 how the MLS system works?

4           A.       The computer software?

5           Q.       Yes.

6           A.       I have several. I have several  
7 people on my MLS staff.

8           Q.       Okay. Who would be the supervisor?

9           A.       Robert Conwell.

10          Q.       Would you know whether -- or when  
11 someone's membership is terminated or ceases, do  
12 you know how long it takes to take their name out  
13 of the system?

14          A.       It's a matter of seconds because it's  
15 manual. My staff manually does that.

16          Q.       Okay. And do they do that -- they do  
17 that per your request; is that correct?

18          A.       Yes, and per procedure. I don't have  
19 to sign off on each and every one. They do it for  
20 several different reasons.

21          Q.       Okay. And once that actually  
22 changes, that -- that person who was taken out,  
23 they can no longer -- their security code or  
24 password no longer works; is that correct?

25          A.       That's correct.

1           Q.       All right. And if someone wanted to  
2 list that particular person as a selling agent,  
3 their name wouldn't come up anymore; is that  
4 correct?

5           A.       I don't know, because I don't know  
6 the mech- -- I don't get into MLS routinely.

7           Q.       Okay.

8           A.       So I don't know how that physically  
9 works.

10          Q.       Okay.

11          A.       Because I don't do it.

12          Q.       When you request that your IT staff  
13 take out an agent's name, do you intend that it is  
14 clear to anybody using the system that they can't  
15 put in that person's name? Is that your intent?

16          A.       I'm not sure I understand the  
17 question.

18          Q.       When somebody -- when you say, okay,  
19 somebody has not paid and so we're terminating  
20 their service, you -- the whole purpose of that is  
21 to make sure that, A, they can't use the service;  
22 is that correct?

23          A.       Yes.

24          Q.       Okay. And that anybody looking at  
25 the service would know that they can't use it

1 because they can't put their name down as a  
2 listing agent; is that correct?

3 A. I think that's correct. I don't know  
4 the mechanics of that part of MLS because I do  
5 not -- I have never done it.

6 Q. Okay.

7 MR. STEDMAN: Can I interject  
8 something here? I understand the line of  
9 questioning, and, you know, I understand the MLS  
10 system quite well. And I think the message that  
11 you're trying to determine is, if Kim Wade was a  
12 selling agent, was he still involved in MLS, but,  
13 I mean, that really doesn't have anything to do  
14 with MLS, who the selling agent is. It could be  
15 somebody outside the system as the selling agent.

16 MS. GOLIDAY: Right. But, normally,  
17 if it's a person outside the system, it's put in  
18 as nonMLS member.

19 MR. STEDMAN: Not necessarily. Not  
20 in my -- I'm from Natchez, and our multiple  
21 listing service --

22 MR. WADE: It's not like that here.

23 MS. GOLIDAY: Okay. Well, when I --  
24 when I call my witnesses, we'll -- we'll figure  
25 out whether there's some differences in the system

1 that y'all use in Natchez and what's actually  
2 here.

3 MS. GOLIDAY, CONTINUED:

4 Q. Ms. -- your name is Usry, right?

5 A. Uh-huh (affirmative response).

6 Q. I always want to say "Usry."

7 A. Everybody does. I answer to it.

8 Q. Is it a standard from your -- in your  
9 position for the last two and a half years, is it  
10 a standard custom that agents may list a property  
11 and not list the buyer's real phone number? Have  
12 you seen that happen before?

13 A. When you're saying "real," what do  
14 you mean by "real"?

15 Q. I mean, they won't actually list the  
16 seller's actual phone number?

17 A. That may be the case, yes.

18 Q. Okay. As you sit here today, do you  
19 know whether Kim Wade's name is out of the -- or  
20 have you sent in the request to have Kim Wade's  
21 name removed from the MLS system?

22 A. How do I know it happened?

23 Q. No. I'm saying, have you sent a  
24 request to your IT people to have his -- his name  
25 removed from the --

1           A.       That would have been done when we got  
2 the license status change form on August 17th from  
3 Ann Prewitt.

4           Q.       Is there a document that you send to  
5 your IT department regarding that?

6           A.       No.

7           Q.       Okay. How do you normally do that?

8           A.       My membership department does that by  
9 taking the form and then going in and making the  
10 changes in several different databases.

11          Q.       Okay. So are you representing to me  
12 that Ms. Hickey would have probably done that?

13          A.       Yes. Possibly. I have several  
14 people in my membership department. She's one of  
15 them.

16          Q.       Okay. To the best of your knowledge,  
17 have you been contacted by the Commission  
18 regarding other violations of -- or failures to  
19 timely present status change forms?

20          A.       No.

21          Q.       Okay. This is the first case that  
22 you've dealt with like this; is that correct?

23          A.       Yes. Well, no, it's not.

24          Q.       Okay.

25          A.       It was over different -- completely

1 different matters, but it's not the first time  
2 that I have dealt with participants not knowing --  
3 notifying us of -- if it's not leaving from one  
4 office to another, but -- as an example, if they  
5 failed to get their CE timely, they're placed on  
6 inactive status, and sometimes we're not notified  
7 timely of that. I don't know if that is what  
8 you're asking.

9 Q. Okay. And in those cases that dealt  
10 with issues about the status change, did you at  
11 any point refer those matters over to the  
12 Commission for investigation?

13 A. No.

14 MS. GOLIDAY: I have no further  
15 questions.

16 MR. MAXEY: I have one follow-up  
17 question.

18 REDIRECT EXAMINATION

19 BY MR. MAXEY:

20 Q. I hand you Exhibit 26. Would you  
21 look at the second paragraph and read to the  
22 Commission the first two sentences?

23 A. "When your license was held with both  
24 Melissa Reese and Ann Prewitt, who were Realtors  
25 in the sole proprietor category, your membership



1 was that of being associated with a Realtor  
2 member. However, when you had your license  
3 reissued to yourself, where you became the sole  
4 proprietor, you no longer met the membership  
5 criteria, and your Realtor membership terminated."

6 Q. And what's -- who is that to, and who  
7 is it from, and what's the date of it?

8 A. It's dated December 16th from me to  
9 Kim.

10 Q. And is this the follow-up e-mail  
11 where you had made the mistake of telling him --  
12 or assuming that he was a member?

13 A. Yes.

14 Q. Okay.

15 MR. MAXEY: I have nothing further.

16 MR. GILLESS: Okay. We're going to  
17 recess for one hour.

18 MR. MAXEY: May I ask you a question?

19 MR. GILLESS: Yes, sir.

20 MR. MAXEY: I've got a fellow who has  
21 been subpoenaed named Chris Barnes. And he says  
22 that he's got to go to work at 3:00, and he's in  
23 Byram, below Byram. And if he doesn't get to  
24 work, he's in trouble. Would you consider -- if  
25 the Commission would consider, if y'all would

1 consider calling him.

2 MR. WADE: It will take less than  
3 five minutes with Chris.

4 MR. MAXEY: Sir?

5 MR. WADE: It will take less than  
6 five minutes with Chris.

7 MR. MAXEY: Could you call him out of  
8 order, then, and call him now before we break?

9 MR. GILLESS: That will be fine.  
10 Yeah, okay.

11 MR. MAXEY: Because he's -- he's a  
12 working man.

13 MR. GILLESS: Let's do that. Let's  
14 get him on in here.

15 MR. MAXEY: Can she be excused?

16 MS. GOLIDAY: Yes.

17 (OFF THE RECORD.)

18 MR. MAXEY: For the record, can we  
19 indicate that Mr. Barnes was subpoenaed by  
20 Mr. Wade to testify here, and that he's indicated  
21 that he's got a job that he's got to be at at 3:00  
22 this afternoon, and its location is below Byram,  
23 so it's going to take him a little while to get  
24 there. So everybody's agreed that he can be  
25 called out of order, even though he's not a

1 witness for the Commission.

2 MS. GOLIDAY: Yes.

3 MR. MAXEY: Thank you.

4 CHRIS BARNES,

5 having been first duly sworn,

6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. GOLIDAY:

9 Q. Please state your name for the  
10 record.

11 A. Chris Barnes.

12 Q. And where do you live, Mr. Barnes?

13 A. 1268 Louis Lane.

14 Q. All right. How long have you lived  
15 there?

16 A. Since November of last year.

17 Q. All right. And who did you buy the  
18 house from?

19 A. I went -- John Eubanks.

20 Q. All right. And how did you come to  
21 look at that house?

22 A. Blare Marble with Richardson  
23 Properties.

24 Q. Okay. Did you see the house first  
25 and want to take a look at it?

1           A.       No.  Actually, I talked to him, and  
2 he showed me several houses.  And I told him I  
3 wanted -- I would like to get a house in the Terry  
4 area.

5           Q.       Okay.

6           A.       And his secretary pulled up that  
7 house, and I told him I would like to go look at  
8 it.  And I went and looked at it.  And then I went  
9 with him and looked at it, and we looked at it a  
10 couple more times.

11          Q.       Okay.  And at some point, you  
12 determined -- you decided to buy it; is that  
13 correct?

14          A.       We decided to start trying to buy it,  
15 yes.

16          Q.       Do you recall when you made an offer  
17 on that house?

18          A.       No, not right off.

19          Q.       Okay.  But at some point, you did  
20 make an offer; is that correct?

21          A.       Yes.  Blare did.

22          Q.       Okay.  And there was a date in there  
23 that you were going to close by?

24          A.       Yes.

25          Q.       Okay.  Were you able to close by that

1 date?

2 A. No. Because the way I filed my  
3 taxes, I had -- it was showing that I didn't have  
4 enough income, so I had to wait. I leased the  
5 house from November until around February in order  
6 to do my -- redo my taxes, so that it would show  
7 that I had enough income qualified to get the  
8 house.

9 Q. Okay. And who did you lease the  
10 property from?

11 A. John Eubanks.

12 Q. Okay. And how much did you pay him a  
13 month?

14 A. 750 a month.

15 Q. All right. And when you leased that  
16 property from him, was it with the understanding  
17 that you were going to purchase that house as soon  
18 as you got your financial affairs in order?

19 A. Yes.

20 Q. Okay. And is that what you  
21 ultimately did?

22 A. Yes.

23 Q. Okay. And at the point that you were  
24 getting ready to purchase this house, did  
25 Mr. Eubanks ever indicate that he didn't want the

1   realtors to get their commission?

2           A.       No, not at the time, he didn't.

3           Q.       Okay. At any point in knowing him,  
4   has he -- did he communicate that to you?

5           A.       No.

6           Q.       Okay. So he never told you that he  
7   didn't want Kim Wade or your realtor to be paid?

8           A.       No, he didn't tell me.

9           Q.       Okay. Was that ever communicated to  
10   you?

11          A.       When we were getting ready to close,  
12   it -- I -- it was told that he didn't want them to  
13   get paid through the lady that financed the house  
14   for me.

15          Q.       Okay. So she told you that?

16          A.       She was saying that he said it, and  
17   they said they wasn't going to close on the house  
18   if the realtors didn't get their cut.

19          Q.       Okay.

20          A.       So, you know. . .

21          Q.       Okay.

22                 MS. GOLIDAY: That's it. I have no  
23   further questions.

24                 MR. MAXEY: We have no questions,  
25   unless the Commission has questions.

1 MR. GILLESS: No questions.

2 MR. MAXEY: You're excused

3 Mr. Barnes. He may be finally excused?

4 MS. GOLIDAY: Yes.

5 MR. MAXEY: You may go to work.

6 Thank you.

7 MR. GILLESS: We'll take a lunch  
8 break now. Let's try to be back at 2:00.

9 (OFF THE RECORD.)

10 MR. GILLESS: Are we ready? We'll  
11 proceed with this meeting.

12 JOHN EUBANKS,

13 having been first duly sworn,

14 was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. MAXEY:

17 Q. Would you state your name for the  
18 record, please?

19 A. Excuse me. John Eubanks.

20 Q. And where do you live?

21 A. In Columbia, Mississippi.

22 Q. And are you occupied at this time?

23 A. Semi.

24 Q. Okay. Did you file a sworn statement  
25 of complaint with the Mississippi Real Estate

1 Commission against Kim Wade, among others?

2 A. Yes, I did.

3 Q. I'll hand you a document which has  
4 been marked as Exhibit 3, and ask you if you  
5 recognize that document?

6 A. Yes, sir.

7 Q. And that is your sworn statement of  
8 complaint?

9 A. Yes, sir.

10 Q. And it has some attachments to it.  
11 Would you sort of go through those one at a time  
12 and explain what those attachments signify as far  
13 as your complaint is concerned?

14 A. Yes. Of course, the first one is  
15 just the form from the Commission and then my  
16 written complaint. And attached to it first was a  
17 copy of the MLS listing form, which I circled all  
18 the wrong items that were on it.

19 Q. Before you go to the next form --

20 A. Sure.

21 Q. -- I would like to ask you, when did  
22 you first know of that Multiple Listing Service  
23 printout?

24 A. It was, if I'm not mistaken, the week  
25 after October the 30th. The reason I say that,



1 October 30th was the date that supposedly my  
2 property in Terry was to be sold and closed, and  
3 it wasn't. And due to the fact that I couldn't  
4 get information and whatnot, I started just trying  
5 to find out what I could. And that's when I  
6 contacted MLS, or the Jackson association, to find  
7 out what they had as far as a listing for me, was  
8 it still there, when was it filed, et cetera, et  
9 cetera.

10 Q. How did -- how do you know that that  
11 report or printout is of your property?

12 A. Well, it's got my name on it as the  
13 owner, and some of the information on it matches  
14 my property. And other than that, the address is  
15 similar but not the same. Really, the worst thing  
16 was the street address. And I just took that as  
17 my property. It appeared to be.

18 Q. Had you listed your property with Kim  
19 Wade?

20 A. Yes.

21 Q. And did you believe at the time that  
22 he was a member of the Multiple Listing Service of  
23 the Jackson area?

24 A. Yes, sir.

25 Q. And had you, before seeing this

1 printout, seen a printout of your property in the  
2 Multiple Listing Service?

3           A.       No, sir, I had -- oh, at sometime in  
4 September, I believe around the 8th or 9th, I  
5 tried to go into the internet and see the listing  
6 on the MLS, to see how it was listed. Because  
7 prior to that, the realtor listed it, and I had a  
8 couple of things about it I wanted changed. I  
9 wanted to see how this listing came out. I  
10 couldn't find it. Never could get it to come up.

11                   And on the 10th of September, that  
12 was a Thursday. The reason I know that, Wade  
13 called me on Thursday the 10th. Came out that he  
14 was on his way to D.C. for the Tea Party meeting  
15 or whatever it was up there.

16                   And in the conversation, he told me  
17 that my listing -- and I'm not sure -- I can't  
18 exactly remember whether he said it had expired or  
19 been removed or whatever, but he would get it  
20 straight when he got back.

21                   And I told him, I said, "I'm having  
22 trouble finding it."

23                   And he said, "Well, I'll get it taken  
24 care of when I get back."

25                   And I asked him, I said, "Well, why

1 don't you do it now?" And that's when he told me  
2 he was on his way to D.C. and that -- and I said,  
3 "Well, couldn't you have done it before you left?"  
4 I'll admit, I'm an impatient person, and I wanted  
5 it in there for people to see.

6 And he said, well, he was -- he was  
7 too busy.

8 Q. Is there an indication of who the  
9 listing broker is on that MLS printout?

10 A. Yes. It shows one that's not Wade.

11 Q. And who is that?

12 A. Prestige Realty and Melissa Reese.

13 Q. Had you had any contact with either  
14 of those real estate entities?

15 A. None whatsoever.

16 Q. Had you listed your property with  
17 either Prestige Realty or Melissa Reese?

18 A. No, sir.

19 Q. What complaints, if any, do you have  
20 about the information that appeared in the MLS  
21 printout that advertised your property? Or  
22 purportedly did?

23 A. Well, if I could qualify that first,  
24 my wife and I, when she was alive, had probably  
25 six or seven pieces of property in our married

1 life. And we always went to the MLS book, at that  
2 time, to pick out what property we thought was  
3 interesting and to weed out what we didn't like.  
4 So I was very concerned that everything in MLS  
5 would paint my property the best it could.

6                   When I finally got this, from the  
7 address being wrong, the listing price was wrong,  
8 the type of heating was wrong, the interior was  
9 wrong, cooking equipment is wrong, screen porch is  
10 wrong, oven type is wrong. I mean, there's about  
11 nine or ten, if I remember right, items that were  
12 incorrect.

13                   And, to me, it concerned me because  
14 who knows the person out there reviewing this,  
15 that one item -- one of those items might be the  
16 one thing that would say, well, we don't want to  
17 look at that property. And the fact that it was  
18 incorrect, upset me.

19           Q.       Go to the next document that -- now,  
20 that is the working with the real estate broker  
21 form?

22           A.       Yes, sir.

23           Q.       And did you sign that form with  
24 regard to your listing with Mr. Wade?

25           A.       Yes, I did.

1           Q.       And did you have any concern about  
2   that form when you reported this to the  
3   Commission?

4           A.       Well, it -- it concerned me to the  
5   fact that it said I could enter into a listing  
6   agreement with the firm authorizing, but that's  
7   not the -- who the listing agreement was shown as.

8           Q.       Okay.

9           A.       Other than that, it looked -- you  
10   know, I figured it to be a standard form. And  
11   find out later that everything purported to be was  
12   not exactly true.

13          Q.       I see. And go to the next document,  
14   if you would, that was attached to your sworn  
15   complaint. And would you describe to the  
16   Commission what that is?

17          A.       It's the exclusive authorization and  
18   right to sell listing agreement.

19          Q.       Is that the listing that you gave or  
20   signed with Kim Wade?

21          A.       Yes, it is.

22          Q.       And what, if any, complaint did you  
23   have with regard to that when you attached it to  
24   your sworn complaint?

25          A.       Well, it says at the very start that

1 this is a form that's provided by the association.  
2 And No. 3, it says that, "The broker is a  
3 participant of the," and it's typed in "JAR." But  
4 then I find out that he was not a participant with  
5 the MLS listing. And I felt like that, to put it  
6 quite bluntly, that I was lied to.

7 Q. What is the date of your listing  
8 agreement with Mr. Wade?

9 A. This form doesn't have it on there.  
10 It would have been around the 6th of July.

11 Q. Did your property ultimately close  
12 pursuant to a contract for the sale and purchase?

13 A. It ultimately closed. I don't know  
14 if you would say it would be pursuant to this  
15 contract.

16 Q. Well, would you just describe -- and  
17 briefly. This is not part of the detail that  
18 we're interested in, but it helps explain what  
19 happened ultimately with your property.

20 A. As I think I said earlier, it was  
21 supposed to close on the 30th of October. So I  
22 had gotten busy and moved everything to Columbia.  
23 I had bought some property down there earlier.

24 And I was at my daughter's house at  
25 8:30, on the 29th, when I got a call from Wade

1 telling me that there was a glitch and that the  
2 closing wouldn't be at 1:00 on the 30th. And I  
3 asked him why. He said, well, he didn't know.  
4 And I said, "Well, find out and give me a call  
5 back tomorrow by noon. I need to find out what's  
6 going on."

7 Because everything was gone. The  
8 property was vacant. And it was out in the  
9 country, and I was concerned, then, that it was  
10 just going to be sitting out there.

11 Didn't hear from Wade. I tried to  
12 call the buyer's broker. Couldn't get in touch  
13 with him. Finally, in a couple of days I --

14 MS. GOLIDAY: Objection as to  
15 relevance. What's the relevance of this?

16 MR. MAXEY: Well, he's just --

17 MS. GOLIDAY: He's talking about  
18 calls that he -- how is this relevant to the  
19 charges?

20 MR. MAXEY: Well, he's just  
21 explaining how the house -- the transaction  
22 ultimately closed. And it's relevant to the  
23 waivers that y'all claim that were signed at the  
24 closing.

25 MS. GOLIDAY: These telephone calls

1 are relevant to the waiver?

2 MR. MAXEY: It's leading to that.  
3 We're not going to elaborate. We're just trying  
4 to get to the closing.

5 THE WITNESS: And to make a long  
6 story short, talking with the buyer, he said he  
7 really wanted the property, blah, blah. And I  
8 asked him, and he agreed, that he would go to a  
9 lease-purchase type agreement. And it was  
10 deadlined in March the 15th, I believe it was,  
11 that he would make a monthly payment, which would  
12 be deducted from the selling price, and then no  
13 later than March, he would make the balloon  
14 payment or the total amount. And he and I entered  
15 into a written, signed contract recorded with the  
16 county here.

17 And that went until, I guess, early  
18 March, when my closing attorney got to doing his  
19 homework, and he called and told me that there was  
20 a lien on the property by Wade, and that he had  
21 called Wade, and Wade had agreed then to -- if he  
22 was paid his commission, that he would hold it in  
23 escrow, withdraw the lien, and then wait for the  
24 Commission to make whatever ruling they made. And  
25 if they thought he should give it back, he would;



1 if they didn't, he wouldn't, et cetera.

2 MR. MAXEY, CONTINUED:

3 Q. Using the word "commission" and  
4 "commission," you're talking about the real estate  
5 commission --

6 A. The real estate commission.

7 Q. -- made its decision?

8 A. Yes. Yes.

9 Q. Okay.

10 A. Because by then, I had filed a  
11 complaint, obviously.

12 So we were under the impression that  
13 he would get this commission amount and then hold  
14 it until y'all had your hearing. "Y'all" being  
15 the Commission.

16 A couple days later, or a day later,  
17 my lawyer called me again and told me that, well,  
18 Wade had changed his mind, that the only way he  
19 would release the lien was for me to sign an  
20 agreement that I would not pursue any action  
21 against him or Reese.

22 And I did a little checking and  
23 talking, and it's my understanding that any  
24 agreement signed under threat or duress is  
25 basically null and void.

1                   And I asked the lawyer what I could  
2 do to get the lien off, and he said, "Well, you  
3 can go before the court, but that's going to take  
4 some time, and, in essence, you'll probably lose  
5 the sale." And I couldn't blame the buyer for  
6 backing out.

7                   So I decided that if we could close,  
8 I would sign the agreement under the assumption  
9 that it was duress and a threat of extortion.

10                  MS. GOLIDAY: I'm going to have to  
11 make my record here and object to -- he's talking  
12 specifically about conversations that he had with  
13 the closing attorney and then advising him as to  
14 him signing this agreement in duress. This  
15 commission has quashed the subpoenas for those  
16 people to be here and testify as to whether this  
17 is true.

18                  If this evidence is coming in, then  
19 my client has a right to offer evidence as to  
20 whether this is true. And those attorneys are not  
21 here to talk about that.

22                  Now, if you're determining if all  
23 this information he's giving is relevant, then I  
24 think this hearing needs to be rescheduled until  
25 some time that those attorneys can be present and

1 be questioned about the statements that he's  
2 making. Otherwise, he needs to stop making them.

3 MR. MAXEY: Mr. Chairman, he's -- you  
4 can assign the weight to this testimony for which  
5 you wish. It's not relevant, I'll admit, to the  
6 charge itself, but it rounds out the closing and  
7 the claim that Mr. Wade has made, that since the  
8 complaint was withdrawn by Mr. Eubanks, then this  
9 hearing shouldn't go forward.

10 He's explaining what took place, and  
11 I don't think the testimony of the lawyers would  
12 make much difference as to what was said. So we  
13 would ask that the Commission permit us to go  
14 forward with his testimony, but you can assign the  
15 weight to it that you wish, considering the  
16 objection.

17 MR. GILLESS: Well, I think earlier  
18 in some of your questions you had made reference  
19 to this document, that -- the waiver.

20 MS. GOLIDAY: Right.

21 MR. GILLESS: I think you had made  
22 reference to that waiver, and that's what he's now  
23 talking about. So I think that you pretty much --

24 MS. GOLIDAY: Well, but I didn't -- I  
25 didn't indicate in any case that he was under

1 duress. He's basically testifying that upon the  
2 advise of his lawyer, he was basically instructed  
3 to commit a fraud, meaning signing a document  
4 knowing that he's under duress, acknowledging --

5 MR. MAXEY: Let me short-circuit --

6 MS. GOLIDAY: -- that he is under --  
7 let me make my record.

8 MR. MAXEY: Let me short-circuit your  
9 objection and say I'll withdraw the question and  
10 ask him a different question so that you're not --  
11 he's not being asked what the lawyer told him.

12 MS. GOLIDAY: Well, but he's already  
13 testified that he was under duress, and that he  
14 performed some investigation, in which he  
15 concluded that as long as he could say he signed  
16 this under duress, that he could then fight it.  
17 That's an issue. And if the attorneys can speak  
18 to that and speak to his credibility, that's  
19 something this board should hear.

20 MR. MAXEY: We'll proceed with  
21 that -- with that understanding.

22 MR. MAXEY, CONTINUED:

23 Q. And did you sign a waiver?

24 A. Yes, I did.

25 Q. And did you agree to withdraw your

1 complaint to the Commission?

2 A. The waiver that I signed said that I  
3 would, yes.

4 Q. And that is a part of the documents,  
5 I think, that have been made available pursuant to  
6 the subpoena by the Commission. And I'll show  
7 that to you and -- if you'll give me a second. I  
8 thought I had it right here.

9 MS. GOLIDAY: It's in there.

10 MR. STEDMAN: It was an exhibit. Did  
11 you number and name your exhibits?

12 MR. MAXEY: Let me see if I can find  
13 it.

14 MR. CUMBEST: John, what are you  
15 looking for?

16 MR. MAXEY: I'm looking for the  
17 waiver.

18 THE WITNESS: The cancellation of the  
19 lien.

20 MR. MAXEY, CONTINUED:

21 Q. Yes, sir. So you did sign a  
22 cancellation of the lien with Mr. Wade?

23 A. Yes.

24 Q. And you agreed to withdraw the  
25 complaint with the Commission?

1           A.       Yes.

2           Q.       And did you believe that that  
3 withdrawal was valid?

4           A.       No, sir.

5           Q.       Did you understand that the  
6 Commission decided to proceed on its own, based on  
7 your complaint?

8           A.       That's what I understood, yes, sir.

9           Q.       So back to the question of when you  
10 sought to see the multiple listing report of --  
11 that you understood was of your property  
12 advertising it for sale, what caused you to go to  
13 the Multiple Listing Service or the JAR to request  
14 to see that?

15          A.       It's hard to explain. I guess one  
16 way you could say it is a gut feeling. There were  
17 several things that just weren't adding up. And I  
18 recalled to myself that I had tried to find it,  
19 and I didn't find it, and then the fact that this  
20 closing was canceled, and then Wade would not  
21 contact or get back in touch with me, who I called  
22 several times.

23                   I called the selling broker -- I  
24 mean, excuse me, the buyer's broker, and he  
25 wouldn't get back in touch with me. So I decided

1 to start at the -- at the start and see what all  
2 was going on. And I wanted to find out just what  
3 the multiple listing said.

4 Because if I might digress just a  
5 minute, when we got the offer of buying the  
6 property from Mr. Barnes, who bought it  
7 eventually, it was curious to me -- as I said, we  
8 had done six or seven houses in my day. We're not  
9 experts at it. But I've never seen one where it  
10 said the property was as is. And I questioned it  
11 when Wade brought it to me.

12 And then I looked and saw the price.

13 MS. GOLIDAY: Objection as to  
14 relevance. What -- how is this related to the  
15 charges that we're here on? He's just -- I mean,  
16 he's just, basically, ranting. I mean -- and I  
17 think we need to get to the issues that we're here  
18 about.

19 MR. MAXEY: Well, I appreciate your  
20 interest in that. Again, we would ask that he be  
21 permitted to testify. He's the complainant. He's  
22 the consumer. He is before this commission  
23 raising his complaint, and I'd like to -- for him  
24 to be able to conclude his statement.

25 And you can assign the weight to it

1 that you find appropriate. You don't have to give  
2 it more credibility than anything else.

3 So with that, I would like for him to  
4 be -- finish that.

5 And you've made your record on that.

6 MR. GILLESS: Proceed.

7 THE WITNESS: And then the one thing  
8 that really stood with that, I guess you'd call it  
9 contract, was the price that the buyer agreed to  
10 pay was \$175,000. And I think we would all  
11 recognize the fact that last fall, real estate  
12 wasn't selling the best in the world. And I had  
13 listed it for 175, I thought. And here is  
14 somebody was buying it without any questions, any  
15 negotiation, any attempt to lower the price. I  
16 thought that was very strange.

17 So then that entered into my mind  
18 when I started let's see what all I can find out.  
19 And that's when I -- one of the things I did, was  
20 contact the Jackson Association of REALTORS and  
21 asked what was on the MLS listing.

22 First they told me that I was looking  
23 for -- I told them I was looking for a listing by  
24 Wade, and they said, "We don't have one." And  
25 then that just caused me to get -- digging and



1 digging.

2 MR. MAXEY: I have no further  
3 questions.

4 MR. GILLESS: Cross.

5 CROSS-EXAMINATION

6 BY MS. GOLIDAY:

7 Q. Mr. Eubanks, as you sit here today,  
8 you'll admit with me that you were a disgruntled  
9 client of Mr. Wade's. Isn't that correct?

10 A. When all this happened, I was not  
11 disgruntled. I was mad.

12 Q. Okay. And you got mad because your  
13 property didn't close on October 30th, like you  
14 expected; is that correct?

15 A. No.

16 Q. You weren't mad about that?

17 A. No.

18 Q. Okay. So you had no concerns that,  
19 here, your property had been -- you had gotten an  
20 offer, you -- you were promised an offer in  
21 September; is that correct?

22 A. Yes, I believe so.

23 Q. Okay. And you were told that that  
24 offer should be there by October; is that correct?

25 A. I don't understand that statement.

1           Q.       Meaning, you were told the offer was  
2 coming before you actually received it; is that  
3 correct?

4           A.       Maybe a day.

5           Q.       Okay. And at some point in October,  
6 you received it; is that correct?

7           A.       Might have been September. I'm not  
8 sure the day that he brought it down there.

9           Q.       Okay. And your house hadn't been  
10 listed that very long, had it?

11          A.       Really, it had been listed since --  
12 with him since July. And before with Ms. Hertz,  
13 since the first of the year, roughly.

14          Q.       Okay. So Ms. Hertz wasn't able to  
15 sell your house, was she?

16          A.       No, she didn't sell it.

17          Q.       Okay. And so at the end of the day,  
18 you sold this house for exactly what you were  
19 asking for, \$175,000; isn't that correct?

20          A.       Yes.

21          Q.       Okay. With little to no conditions;  
22 is that correct?

23          A.       I wouldn't say that.

24          Q.       Okay. You didn't have to do a lot of  
25 fixing to the property or anything like that

1 before it sold, did you?

2 A. It didn't need any.

3 Q. Right. So you got \$175,000 for this  
4 property?

5 A. Eventually.

6 Q. Yes. And this property closed. Now,  
7 originally, you couldn't close, but that was  
8 because the buyer had some financial issues; isn't  
9 that correct?

10 A. That's what I found out, yes.

11 Q. And that had nothing to do with Kim  
12 Wade, did it?

13 A. Not really.

14 Q. Okay. And as a matter of fact, that  
15 buyer wanted this house so bad, that he entered  
16 into a lease agreement with you; is that correct?

17 A. He and I together, yes.

18 Q. Right. So even after you got this  
19 offer and it didn't close, you weren't suffering  
20 any loss because -- because the guy who bought  
21 this house rented it from you. And he paid rent  
22 every month; isn't that correct?

23 A. He didn't pay everything that we  
24 agreed to, no.

25 Q. Okay. Did you sue him because he

1 didn't pay it?

2 A. No.

3 Q. All right. You even still sold that  
4 house to him after he didn't pay; isn't that  
5 correct?

6 A. Yes, he closed on it.

7 Q. Okay. And so with all of these  
8 complaints that you've made, you don't have any  
9 real damages, do you?

10 A. I don't know what damages I may or  
11 may not have had.

12 Q. Okay. But ultimately, the agreement  
13 that you reached with Kim Wade was to sell your  
14 house, was it not?

15 A. Yes.

16 Q. Okay. And your house was sold; is  
17 that correct?

18 A. By my -- by my work, yes.

19 Q. Okay. Now, at the time that this  
20 offer was made, you were still represented by Kim  
21 Wade; isn't that correct?

22 A. He had passed himself off as a  
23 Realtor, and I had signed the contract, yes.

24 Q. Okay. So it was your understanding  
25 that the offer came while he was representing you;

1 is that correct?

2 A. As a Realtor, yes, ma'am.

3 Q. Right. And so at some point, it did  
4 not close by the term of your contract with  
5 Mr. Wade; is that correct?

6 A. Yes.

7 Q. All right. And you took it upon  
8 yourself at that point to negotiate directly with  
9 the buyer; is that correct?

10 A. Yes.

11 Q. And you did that because you wanted  
12 to cut Mr. Wade out of his commission; isn't that  
13 correct?

14 A. No, that's not. I have heard that  
15 since day one, and I have never said that. I have  
16 never uttered it, never thought it.

17 Wade and Reese, in their answers to  
18 these complaints, are the ones that keep saying  
19 that I was trying to keep from paying them a  
20 commission. That has never been mentioned.

21 Q. Okay. So you were prepared at the  
22 closing to pay him his commission?

23 A. We had to, under his threats of  
24 extortion.

25 Q. No, prior -- prior to all of these

1 documents that were signed.

2 A. And if the closing had been on the  
3 30th, yes.

4 Q. Okay. But because it wasn't, you  
5 didn't want -- even though it was the same buyer,  
6 you didn't want to pay him?

7 A. I never said that. But in my own  
8 mind, because I find out he lied to me, no, I  
9 didn't want to pay.

10 Q. All right. And you only found out  
11 about that after you had an offer; isn't that  
12 correct?

13 A. Yes.

14 Q. All right. Because I think Ms. Usry  
15 testified, and you would agree with me, that you  
16 didn't contact their office until November?

17 A. Well, October the 30th was the  
18 closing date, and it had to be at least one, two,  
19 three, four days later, which would have been  
20 November.

21 Q. Right. And you did that because you  
22 were mad it didn't close?

23 A. No, it was not because it didn't  
24 close. It was because "he," being Wade, nor the  
25 seller's broker, would get back in touch with me.

1 Q. Okay.

2 A. So I assumed that somebody was trying  
3 to hide something.

4 Q. Okay.

5 A. And that's what I found out.

6 Q. And they were trying to hide that  
7 there was a buyer for the property who was having  
8 financial problems?

9 A. No. They evidently were trying to  
10 hide that Wade was not a Realtor, and that the  
11 listing was not Wade's listing, but a lady named  
12 Reese with Prestige, who I had no knowledge of.

13 Q. But how would that affect -- well,  
14 wouldn't you agree with me, that wouldn't affect  
15 the fact there was an offer; there was somebody  
16 who wanted to purchase your house?

17 A. So?

18 Q. And so how would that be related?  
19 Because the reason he didn't purchase the house  
20 was because the buyer had financial problems.  
21 That doesn't affect --

22 A. You asked me if I was mad because the  
23 house didn't sell. I told you I was mad because I  
24 was lied to by Wade.

25 Q. You were mad your house didn't close

1 on October --

2 A. I was mad because Wade lied to me. I  
3 can't put it any blunter than that.

4 Q. Okay. So at some point after you got  
5 over being mad, you filed some action with this  
6 commission; is that correct?

7 A. That's right.

8 Q. All right. And then you, at your  
9 closing, signed a document, which is a waiver.  
10 If you'll push me that. That's it.  
11 Yeah.

12 Now, the day that you signed that  
13 waiver, was anybody standing over your head with a  
14 gun, requiring that you sign this paper?

15 A. A gun of sorts, that it would kill  
16 my sale.

17 Q. A gun, as in purchased from the  
18 store, made from metal.

19 A. Well, they make guns out of a lot of  
20 things besides metal, ma'am.

21 Q. Okay. Was there someone holding an  
22 object that's classified as a gun over your head?

23 A. Not a physical piece of gun.

24 Q. Okay. Now, was anybody -- when you  
25 signed this paper, was anybody there threatening



1    you?

2           A.       That paper in itself was a threat.

3           Q.       When you signed this paper in front  
4   of Betsy Boone, who is the notary public, was  
5   anybody else present when you signed this paper?

6           A.       Yes.

7           Q.       Who was present in the room with  
8   Betsy Boone when you signed this paper?

9           A.       The paper was signed in the  
10   conference room at the attorney's office. Chris  
11   Barnes and his wife was there. The buyer's broker  
12   was there. I was there. Wade was there.

13          Q.       All right. And you would agree that  
14   nobody threatened you and said, "Sign this paper  
15   right now"?

16          A.       No, nobody said that.

17          Q.       Okay. And they presented this paper  
18   to you and allowed you to read it; isn't that  
19   correct?

20          A.       True.

21          Q.       All right. Now, this is -- we've got  
22   two documents here that I would like to mark as a  
23   collective exhibit. There's -- actually, it's  
24   three. The affidavits of Kim Wade, John Eubanks,  
25   and the actual document that we would term as a

1 release.

2 Now, would you agree with me that if  
3 I call Ms. Betsy Boone in here, who is the notary  
4 public -- the notary who signed this, that she  
5 would testify that you didn't indicate to her that  
6 you were in duress?

7 A. No, I didn't talk to her.

8 Q. Okay. As a matter of fact, you  
9 provided your license, or whatever, to her and  
10 affirmed to her that you were a true -- this  
11 person, that you were actually the person to sign  
12 this?

13 A. Sure.

14 Q. Okay. Now, at the time that you  
15 signed this, you knew that you were still going  
16 to -- going to pursue a complaint with the  
17 Commission, didn't you?

18 A. Sure did.

19 Q. Right. And because of that, you just  
20 signed this so that your closing could go through;  
21 is that correct?

22 A. Correct.

23 Q. All right. And you had mentioned  
24 that you were afraid that the buyer may not want  
25 the property. But at that time, the buyer had

1 moved in, hadn't he?

2 A. Well, he moved in back in November.  
3 But he was not going to stay in there if this  
4 thing didn't close in March.

5 Q. Okay. Did you have a document where  
6 he said that?

7 A. No. I just remember what he told me.

8 Q. Okay. And so he was there, he was  
9 renting the property, and --

10 A. He was not renting it. He was  
11 leasing it.

12 Q. Okay. He was leasing the property.  
13 And if it had taken you two months to clear up  
14 this lien, he would have continued to lease that  
15 property had you told him, "We're going to close,  
16 we've just got to work something out." Isn't that  
17 correct?

18 A. No.

19 Q. Okay. Now, why did you -- why is it  
20 that you never sought court intervention if you  
21 thought that you were being extorted?

22 A. I've still got time to, ma'am.

23 Q. Okay. But prior to signing these  
24 documents, you didn't do that?

25 A. I wanted the property to close. I

1 had a piece of property out there, that if the  
2 buyer moved out, was going to be vacant in the  
3 country with no security. And it had been on the  
4 market, and I wanted it sold.

5 Q. Okay. And so you --

6 A. And I do not like to be threatened,  
7 and that's what I was being done.

8 Q. Okay. That's how you felt.

9 Now, you signed these papers  
10 voluntarily?

11 A. Under threat.

12 Q. But who threatened you that day that  
13 you signed these?

14 A. The paper itself presented by Wade to  
15 me as a threat.

16 Q. Okay. But as you sat there -- these  
17 affidavits that were signed, who prepared these?

18 A. Wade.

19 Q. These documents right here. These  
20 were prepared by your lawyer, weren't they? Look  
21 at them.

22 A. Let me see which ones you're talking  
23 about.

24 Q. Look at them. These -- those  
25 documents were prepared by your lawyer?

1 MS. GOLIDAY: Yeah, let's mark them.  
2 Go ahead and mark them as an exhibit.  
3 (EXHIBIT NO. 29 WAS MARKED FOR THE RECORD.)  
4 MS. GOLIDAY, CONTINUED:  
5 Q. Now, the document -- flip back to the  
6 last two pages. Those documents that are titled  
7 "Affidavit," isn't it correct that your attorney  
8 drafted those documents?  
9 A. Yeah, this -- the affidavit, if I  
10 understand right, is the one that they took to the  
11 courthouse to get the lien removed.  
12 Q. Okay. Read that --  
13 A. And he would have --  
14 Q. Read that affidavit for me.  
15 A. The whole thing?  
16 Q. You don't have to read it out loud.  
17 I'm asking you to read it to yourself.  
18 A. What do you want to know?  
19 Q. Because you indicated that that was  
20 the affidavit that was taken to the courthouse,  
21 and I think you're mistaken about that. I think  
22 there is a document called "Release and  
23 Cancelation of Lien" that was actually taken to  
24 the courthouse.  
25 A. Well, you're the attorney; I'm not,

1 so. . . But I understood that this was used to  
2 get the lien removed.

3 Q. But it was prepared by your  
4 attorneys; is that correct?

5 A. Yes.

6 Q. So you -- are you -- as you sit here  
7 today, are you telling me that you were threatened  
8 by documents that were prepared by your own  
9 attorney?

10 A. I didn't say that I was threatened by  
11 a document prepared by my attorney.

12 Q. Let me see those documents. Okay.  
13 You admit with me that these documents were  
14 prepared by your attorney, that these documents  
15 titled "Affidavit" were prepared by your attorney?

16 A. Well, I haven't seen the last one.  
17 You got it back before I did. I did not see in  
18 there the form that Wade brought.

19 Q. It's attached as the last page.

20 A. Well, I'd have to read it.

21 Q. I'm talking about the two pages on  
22 the front of this exhibit that are entitled  
23 "Affidavit."

24 A. I believe those were done by my  
25 attorney, yes.

1           Q.       And so when your attorneys presented  
2 this to you, you voluntarily signed it; is that  
3 correct?

4           A.       Yes.

5           Q.       Okay.

6           A.       Now, do you want to bring up the last  
7 form that you haven't talked about there?

8           Q.       The last form is a release that I  
9 think you've already testified you felt threatened  
10 -- that you felt threatened by.

11          A.       I just wanted to make sure. Okay.

12          Q.       Yeah. But that day, nobody  
13 physically threatened you to sign that; is that  
14 correct?

15          A.       No.

16          Q.       All right. And you were advised by  
17 your attorneys that you had the right to have the  
18 lien removed by going to court; is that correct?

19          A.       No, I never said my attorney advised  
20 me of that. I said I did my research, and it was  
21 my understanding.

22          Q.       Okay. So you had an understanding  
23 that you could -- that you could go to the court  
24 to have that lien removed?

25          A.       Come again?

1           Q.       You had an understanding that you  
2 could go into court and seek to have that lien  
3 removed?

4           A.       Oh, yes.

5           Q.       Okay. And you --

6           A.       That was always known, but it would  
7 take time.

8           Q.       And you opted not to do that; is that  
9 correct?

10          A.       Did not want to lose the sale.

11          Q.       Okay. And that was the decision that  
12 you made using your own mind; is that correct?

13          A.       Correct.

14          Q.       All right. Now, when your house was  
15 on the market, you were actually living in  
16 Columbia; is that correct?

17          A.       No.

18          Q.       Where were you living?

19          A.       In the house.

20          Q.       Okay. At what point did you move out  
21 of the house?

22          A.       I started moving after we got the  
23 final contract agreement from Barnes that he was  
24 wanting to buy.

25          Q.       Okay. So you started moving in



1 September or October?

2 A. In October.

3 Q. Okay. And at some point, were you  
4 having problems with -- and when you moved, you  
5 moved to Columbia; is that correct?

6 A. Yes.

7 Q. And in Columbia, were you having  
8 problems with your cell service?

9 A. Yes.

10 Q. All right. So there were times when  
11 people were calling you, where you were trying to  
12 use your phone, and you couldn't make calls out  
13 from Columbia, correct?

14 A. Correct.

15 Q. All right. So it would stand to  
16 reason that if you were having problems receiving  
17 calls when you were calling these people and when  
18 they were calling you back, the calls weren't  
19 going through; that could happen?

20 A. If I was at the property that we live  
21 at now in what's known as Bunker Hill. In town  
22 and at my daughter's house, there was no problem.

23 Q. But there were problems in Columbia  
24 using your cell phone?

25 A. Outside of Columbia, there were

1 problems.

2 Q. Okay. So when you moved down there,  
3 you acknowledge that there was some issues with  
4 your cell service?

5 A. Yeah.

6 Q. Now, as you sit here today, what is  
7 your understanding of the charge that has been  
8 brought based on your complaint against Mr. Wade?

9 Well, no, let me rephrase that  
10 question.

11 As you sit here today, would you  
12 agree with me, that the only charge that's being  
13 brought about -- against Mr. Wade regarding this  
14 matter is how your house was inputted into MLS?

15 A. No.

16 Q. Okay. What is your understanding of  
17 the charge?

18 A. I don't know, and I never have really  
19 read or --

20 Q. If you don't understand the charges,  
21 say you don't understand it.

22 A. But I understand the reason for it --

23 Q. No, no.

24 A. -- is because he's lied.

25 Q. Do you understand the actual charge?

1           A.       I haven't really looked at it that  
2 hard, no.

3           Q.       All right.

4                   MS. GOLIDAY: I have no further  
5 questions for this witness.

6                   MR. MAXEY: We have nothing further,  
7 unless the commissioners have questions of  
8 Mr. Eubanks.

9                   MR. DEAN: No, we don't.

10                  MR. MAXEY: You're excused. If you  
11 want to stay and watch the proceedings, you may.

12                  THE WITNESS: Okay. The day's shot  
13 anyway.

14                  MR. MAXEY: The Commission has no  
15 further evidence to present in support of its  
16 complaint, and so we rest at this point.

17                  MS. GOLIDAY: Okay. We'd like to  
18 call -- I would like to call Ann Prewitt first.  
19 Is she present? Because I was informed that she  
20 was not present. And if she's not present, I just  
21 want to make my record that she was subpoenaed to  
22 be here.

23                  MR. PRAYTOR: Ann Prewitt is not  
24 here.

25                  MS. GOLIDAY: So that she was -- it

1 is my understanding that a subpoena was issued for  
2 her to be present today and to bring said  
3 documents with her.

4 (Interruption in proceedings.)

5 (OFF THE RECORD.)

6 MS. GOLIDAY: I'm sorry. It wasn't  
7 on here. It's not on here. It was in my mind  
8 that it was on here. I'm sorry, I apologize.  
9 It's not on here.

10 Beverly Hickey.

11 BEVERLY HICKEY,

12 having been first duly sworn,

13 was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. GOLIDAY:

16 Q. Please state your name for the  
17 record.

18 A. Beverly Hickey.

19 Q. And what is your position here with  
20 JAR/MLS?

21 A. I am the membership manager of the  
22 Jackson Association of REALTORS.

23 Q. Okay. And what are your job duties  
24 and responsibilities?

25 A. I get in the applications for

1 membership, and we process those. I have a  
2 committee, and we go over the applications. And  
3 I -- when the forms come in for the licensee  
4 status form, when people are licensed, I put those  
5 into the computer. And answer the phone and a  
6 bunch of other stuff.

7 Q. Okay. Now, in this particular case,  
8 were you the person that received the status  
9 change form from Ann Prewitt on behalf of Kim  
10 Wade?

11 A. Yes.

12 Q. Okay. Do you recall when that form  
13 came in?

14 A. It was sometime in August. I  
15 don't -- I don't remember the date.

16 Q. Okay. All right. So, now, is that  
17 something that was faxed to you from Ann Prewitt's  
18 office?

19 A. I think it was. I'm not really sure,  
20 though.

21 Q. All right. And at some point after  
22 getting that notice, you talked with your  
23 supervisor, Ms. Usry, about the status change form  
24 you received?

25 A. Yes.

1           Q.       Okay. And I'll represent to you that  
2 she testified that you informed her that Kim  
3 needed to pay \$650.

4           A.       Yes.

5           Q.       Okay. What does that \$650 cover?

6           A.       Okay. 500 of that would be an MLS  
7 participation fee.

8           Q.       Okay.

9           A.       And the other 150 would be an online  
10 access fee for the office.

11          Q.       Okay.

12          A.       That would be the 650.

13          Q.       Okay. So that -- so this 650  
14 actually does not include any dues for JAR?

15          A.       No, ma'am.

16          Q.       Okay. Other than this e-mail,  
17 what -- what, if any, other documents did you send  
18 to Mr. Wade regarding his status with JAR and MLS?

19          A.       No documents.

20          Q.       Okay. Is there a document that you  
21 guys normally would send to an agent where there  
22 has been a nonpayment of fees?

23          A.       That's -- I don't do that. That's  
24 not my. . .

25          Q.       Do you know who in your office would

1 do that?

2 A. Becky handles all the money end of  
3 everything, the collecting of the dues and the  
4 fees.

5 Q. Okay. I want to show you a letter  
6 that's dated March 29th, 2009, and it's signed by  
7 you, Beverly Hickey, and it's addressed to Emma  
8 Sanders.

9 MS. GOLIDAY: I would like to mark it  
10 as an exhibit.

11 (EXHIBIT NO. 30 WAS MARKED FOR THE RECORD.)

12 MR. MAXEY: May I ask you what's the  
13 relevance to this case?

14 MS. GOLIDAY: It will speak to a  
15 custom that's in the office about how they inform  
16 people when they are not -- when their status is  
17 inactive for JAR/MLS.

18 MR. MAXEY: Well, Emma Sanders  
19 doesn't have anything to do with this case,  
20 though.

21 MS. GOLIDAY: I understand. But the  
22 form letter is what I'm talking asking a question  
23 about. She -- she just testified that she sends  
24 out no such letter, so I'm going to ask her about  
25 that particular letter.

1 MS. GOLIDAY, CONTINUED:

2 Q. Is that your signature on the bottom  
3 of that letter?

4 A. Yes, it is.

5 Q. Okay. Now, is that the form letter  
6 that you guys normal- -- when I say "form,"  
7 meaning this is something that's saved in your  
8 computer, you just go in and change the agent's  
9 name to advise them when they are not -- as to  
10 their status for JAR and MLS.

11 A. May I have time to read this?

12 Q. Yes.

13 A. Thank you. (Reviews document.)

14 The only thing that I can say this  
15 letter tells me is that somehow we were informed  
16 that the licensee had gone inactive.

17 Q. And so you sent her that letter, is  
18 that correct, to advise her what she needed to do?

19 A. Yes.

20 Q. Okay. As you sit here today, do you  
21 recall sending Kim Wade any such letter?

22 A. No -- I don't -- no, I do not recall.

23 Q. Okay. Do you recall if you ever sent  
24 him a letter advising him of his status with  
25 JAR/MLS?



1           A.       No.

2           Q.       Now, I will represent to you that  
3 your boss also testified that a lot of times when  
4 these status changes come in, that they are handed  
5 off to you, and that you then take the  
6 responsibility of contacting the IT department to  
7 have persons removed from the MLS system. Is that  
8 correct?

9           A.       I take the -- I take whoever has gone  
10 inactive and I take them out of our MLS system.

11          Q.       Now, do you do that --

12          A.       Internally as well.

13          Q.       Okay. Do you do that yourself?

14          A.       Yes.

15          Q.       Okay.

16          A.       I put them on an inactive status.

17          Q.       So when you go in from your computer  
18 and you put them -- you -- do you send a letter to  
19 IT, or you actually act as the IT person and take  
20 them out?

21          A.       If they -- I let the IT director know  
22 if they've gone inactive, you know.

23          Q.       Okay. And how do you let them know  
24 that?

25          A.       I just call upstairs to our IT

1 person.

2 Q. Okay. Do you generate any paperwork  
3 about that?

4 A. No. Because the licensee status form  
5 says they've gone inactive.

6 Q. Okay.

7 A. That the broker has put their license  
8 inactive.

9 Q. Now, at the time you received the  
10 status form -- status change form for Ann Prewitt  
11 on Kim Wade, what -- what did you do regarding his  
12 MLS status?

13 A. He was marked inactive in the MLS  
14 system, the listed system as inactive.

15 Q. And what day did that happen?

16 A. I do not know. I do not remember.

17 Q. Do you recall when you sent that in?

18 A. Sent what in?

19 Q. Sent or called in to the IT  
20 department to have that --

21 A. No, I do not.

22 Q. Do you recall whether that was done  
23 in August or October?

24 A. I don't remember.

25 Q. Okay. Do you recall ever doing it?

1           A.       Doing what?

2           Q.       Calling up to the IT department and  
3   having his status declared as inactive.

4           A.       No, I don't -- I don't remember that.

5           Q.       As you sit here today, do you know  
6   whether his status has been marked in the MLS as  
7   inactive?

8           A.       His status in MLS?

9           Q.       Uh-huh.

10          A.       Yes, it is inactive.

11          Q.       Do you know when that was done?

12          A.       I do not. I do not remember.

13          Q.       But you didn't cause that to be done?

14          A.       Yeah, I actually typed it in the  
15   system.

16          Q.       Okay. As you sit here today, have  
17   you read the bylaws, rules and regulations for JAR  
18   and MLS?

19          A.       Not fully, no.

20          Q.       Okay. Is it ever your job to  
21   interpret and/or enforce these rules, regulations  
22   and bylaws?

23          A.       Enforce, meaning to do data entry?

24          Q.       Meaning, if someone calls you and  
25   asks you how to do something that is based on

1 these rules and regulations, do you provide them  
2 with advice on how to do it?

3 A. No, ma'am.

4 Q. Okay. So when agents call to discuss  
5 their status changes, who do they actually talk  
6 to?

7 A. They talk to me or Diane Bruce.

8 Q. Okay. And so you guys would answer  
9 any questions they have about their status change;  
10 is that correct?

11 A. We answer questions, yes.

12 Q. Okay. And what document do you rely  
13 on to answer questions regarding status change?

14 A. The -- are you talking -- the  
15 licensee status form.

16 Q. Okay. So that's what you rely on to  
17 give -- is that the sole document you rely on to  
18 give your advice?

19 A. We check the computer to make sure,  
20 you know, if they're active, if that's what you're  
21 asking.

22 Q. Is there a document or a handout in  
23 your office that provides instructions on what to  
24 say when people ask certain questions?

25 A. They can go to the -- what we call

1 FRDs on the Jackson Realtor website, and there's  
2 documentation, applications, you know, information  
3 about the two companies, things like that.

4 Q. Okay. Well, the question I'm asking  
5 in particular is, if there is a document that's  
6 similar to, like, a script, that says if someone  
7 calls and asks you this question --

8 A. No.

9 Q. -- do one, two, three; say one, two,  
10 three?

11 A. No.

12 Q. Now, since July of 2009, have you had  
13 the occasion to talk with Kim Wade about his  
14 status with JAR at MLS?

15 A. Yes.

16 Q. Okay. And when did you talk to him?

17 A. I don't know the date.

18 Q. Okay. Do you remember the  
19 conversation?

20 A. He called on the phone, and I told  
21 him what he needed to do. He wanted to know when  
22 he opened a new company, what to do.

23 Q. Okay.

24 A. He had his broker's license, and he  
25 was going to open his own company, and I told him

1 the procedure.

2 Q. Okay. And do you recall when that  
3 was?

4 A. No, ma'am, I don't.

5 Q. Okay. Would that be indicative of  
6 the time in which you told Jo Usry about the \$650?  
7 Would it have been around that same time?

8 A. Probably so. I just don't remember  
9 the dates.

10 Q. Okay. And once you got that form  
11 from Jo Usry -- I mean, got the form from Ann  
12 Prewitt, did you contact Mr. Wade after you got  
13 that form from Ann Prewitt?

14 A. No, ma'am.

15 Q. Okay. Now, at the time that you  
16 talked to him about his status and what he needed  
17 to do as a new broker, did you advise him about  
18 any fines or loss of service?

19 A. I told him that he had the 30 days.

20 Q. To get all of this taken care of; is  
21 that correct?

22 A. He had 30 days to apply for his  
23 principal membership without losing his Realtor  
24 status.

25 Q. Okay. And did you say that, or did

1 you say you have 30 days to get all of these  
2 things taken care of?

3 A. I don't remember saying that.

4 Q. Okay. Did you tell him what would  
5 happen if he didn't do it in 30 days?

6 A. That he would have to reapply for  
7 membership.

8 Q. Okay. And inherently, what you're  
9 saying is the fact that nothing was going to  
10 happen during those 30 days; is that correct?  
11 Nothing was going to happen as far as his status  
12 goes?

13 A. His Realtor status, yes.

14 Q. Okay. Now, in dealing with the  
15 status change forms, had you had the occasion to  
16 deal with several instances in which there were  
17 glitches in how long it takes the status change  
18 form to get -- come in and be processed? Meaning,  
19 there were people who waited more than 30 days?

20 A. To send in a status change form?

21 Q. Yes.

22 A. It's possible. I don't -- I don't  
23 know.

24 Q. Do you know specifically if Ann  
25 Prewitt has a history of being late turning in

1 status change forms --

2 A. No, ma'am.

3 Q. -- for agents leaving her company?

4 A. No, ma'am, I don't know that.

5 Q. Is there a document, other than the

6 letter that we saw, that is sent to agents once

7 you receive a status change form?

8 A. No, ma'am.

9 Q. Now, you -- you had mentioned that

10 you don't -- you don't deal in collections.

11 A. If they come in to pay a bill and

12 Becky's got somebody in her office, I'll, you

13 know, put it in the computer.

14 Q. Okay. But you're not the person

15 that's responsible for sending out late notices

16 when brokers don't pay the subscriber fees for

17 their agent?

18 A. Correct.

19 Q. You're not that person?

20 A. No, ma'am.

21 Q. Now, back when you talked to Kim in

22 August, and you came up with that \$650, was he

23 delinquent on any other fees?

24 A. I wouldn't know that.

25 Q. Did you check?



1           A.       No, ma'am.

2           Q.       So you didn't check to see if he had  
3 an outstanding balance?

4           A.       No. I just told him what he needed  
5 to do to apply for his own membership.

6           Q.       Okay. And that was in August?

7           A.       I don't know the date, ma'am.

8           Q.       Okay. But you would agree with me,  
9 that the e-mail from Jo Usry -- I mean, Usry came  
10 shortly after?

11          A.       Yes.

12          Q.       Okay. So that -- and if I  
13 represented to you that that e-mail was done in  
14 August, then you would agree with me that that  
15 conversation happened in August?

16          A.       Yes.

17          Q.       Okay.

18                   MS. GOLIDAY: I have no further  
19 questions for this witness.

20                   MR. MAXEY: I have no questions.

21                               EXAMINATION

22 BY MR. EDWARDS:

23          Q.       Just so that we are clear, this  
24 letter, that was here a moment ago, I don't want  
25 to get the status of inactive confused. We're

1 talking about two things. That letter, as I  
2 understood it, wherever that letter is --  
3 MR. CUMBEST: Right here.  
4 MR. EDWARDS, CONTINUED:  
5 Q. Okay. That letter is a response  
6 because someone had gone inactive with the  
7 Commission?  
8 A. I think that's correct, yes.  
9 Q. I mean, that's the way I -- that's  
10 what I read that to say.  
11 A. Yeah.  
12 Q. Which is something separate and apart  
13 and totally different from --  
14 A. Right.  
15 Q. -- inactive in the MLS system. So  
16 we're talking about two different things.  
17 A. Two different things.  
18 MR. WADE: No, it's not. It's the  
19 same thing.  
20 MR. EDWARDS: No, sir. If you are  
21 inactive with the real estate commission, you can  
22 do nothing.  
23 MR. WADE: No. Now, see, now you  
24 guys -- unless these two entities are married, it  
25 would have no difference to them. As far as

1 they're concerned, they're concerned with their  
2 system exclusively, not with what you do.

3 MR. EDWARDS: When you become  
4 inactive, when anyone --

5 MR. WADE: Right. The question would  
6 be, then, when did they know? How did they know?

7 MR. MAXEY: Guys. . .

8 MR. WADE: I'm just saying, because  
9 he interjected.

10 MR. MAXEY: You're out of order. I  
11 mean, you really shouldn't -- he is asking the  
12 witness questions and has a right to do that, as  
13 any of the commissioners.

14 MR. WADE: Actually, he's making a  
15 statement.

16 MR. MAXEY: And his -- your lawyer  
17 can follow up with questions.

18 MR. WADE: I've got you.

19 MR. EDWARDS, CONTINUED:

20 Q. So my question to --

21 A. Me.

22 Q. -- Beverly, is that that response is  
23 in response to a notification --

24 A. From the real estate --

25 Q. -- from the real estate commission

1   that that individual --  
2           A.       Is inactive.  
3           Q.       -- that licensee had gone on inactive  
4   status.  
5           A.       Status.  
6           Q.       As I understand it, as such, loses  
7   their membership qualification to be in the  
8   Jackson Association of REALTORS, MAR, NAR, and  
9   likewise, the MLS participation?  
10          A.       That's right.  
11          Q.       Okay. And that inactivity is  
12   separate and apart from someone who is a member  
13   but is not active in the MLS?  
14          A.       (Nods head affirmatively.)  
15          Q.       I'm just trying to make sure I  
16   understand it.  
17          A.       Yes.  
18                  MR. MAXEY: Are there other questions  
19   of the Commission?  
20                  MR. DEAN: No, no. That's fine.  
21                  MR. MAXEY: Any follow-ups?  
22                  MS. GOLIDAY: I've got a couple of  
23   follow-up questions.  
24                  REDIRECT EXAMINATION  
25   BY MS. GOLIDAY:

1           Q.       Normally, when there is an issue as  
2 to someone's status or status change, your office  
3 sends out a letter regarding that, correct?

4           A.       Say that again.

5           Q.       When you -- when there is a change,  
6 meaning outside of the license violation that they  
7 have been talking about, a letter is sent from  
8 your office as to the status under JAR and MLS; is  
9 that correct?

10                   Okay. Let me show -- let me show you  
11 this document here.

12                   MS. GOLIDAY: And if we can mark it  
13 as an exhibit, it is a December 3rd, 2009, letter  
14 from MLS, which was sent to Mr. Wade that  
15 explained his status.

16           (EXHIBIT NO. 31 WAS MARKED FOR THE RECORD.)

17                   THE WITNESS: Okay. This is having  
18 to do with the MLS key. Once I had put him in the  
19 MLS -- in the system as inactive, okay, then I  
20 would have given the form to Diane. And if there  
21 was a key that was outstanding, MLS key, then she  
22 would have sent the letter out having him to get  
23 the key back in to us.

24           MS. GOLIDAY, CONTINUED:

25           Q.       Okay. And why did it take from -- I

1 mean, because I think the position you guys have  
2 taken is that he was not eligible for multiple  
3 listing on July 29th -- I mean, on July -- in July  
4 of '09, and that he was not -- and that you guys  
5 definitively, if there was a question, knew it in  
6 August. Why wasn't this letter sent then?

7 A. I don't know.

8 Q. Okay. Because you admitted that you  
9 knew -- that you knew about this in August when  
10 you got the form from Ann Prewitt; is that  
11 correct?

12 A. That he had gone inactive?

13 Q. That he had changed his status.

14 A. Yes.

15 Q. Okay.

16 A. It does say that.

17 Q. All right. And that he would have --  
18 based on your understanding, he would have had  
19 30 days to basically get all these things taken  
20 care of; is that correct?

21 A. To become -- to maintain his Realtor  
22 status.

23 Q. Okay. And what happens to his keys  
24 and things like that to the MLS system during that  
25 30-day period?

1           A.       Well, when he -- when Ann turned his  
2 license in, then he no longer has MLS service.

3           Q.       Okay.

4           A.       So that's why this letter went out.

5           Q.       Okay. And so --

6           A.       To get -- to collect the key.

7           Q.       Huh?

8           A.       To -- because he had an MLS key. And  
9 since he no longer has MLS service, we sent a  
10 letter out -- or Diane sent the letter out to get  
11 the key back.

12          Q.       Okay. And so when is it that you say  
13 he no longer had MLS service?

14          A.       As soon as his broker turned his  
15 license in.

16          Q.       And that would be in August of 2009;  
17 is that correct?

18          A.       I don't know when she turned the  
19 license in.

20          Q.       Okay. But that would have been the  
21 form, when she -- the license would have been  
22 attached to the form, is that correct, the  
23 licensee status change form?

24          A.       The license would not have been  
25 attached to the licensee status change form.

1           Q.       Okay. So at the point that she  
2 turned in the form, is that when his keys would  
3 have become inactive?

4           A.       He would have been -- he would have  
5 been inactive when she would have -- the broker  
6 would have turned in the license here at the real  
7 estate commission.

8           Q.       Okay. And how would you have found  
9 that out?

10          A.       That he went inactive?

11          Q.       Yeah.

12          A.       Because the licensee status form  
13 would have come in.

14          Q.       All right. And, normally, it's  
15 custom and procedure, that form comes in pretty  
16 quickly after someone leaves. But when people  
17 don't turn those forms in on time, it causes  
18 problems like this; you would agree?

19          A.       Well, they need -- they need to be  
20 turned in in a timely fashion.

21          Q.       Because it causes problems; is that  
22 correct?

23          A.       I guess you could say that. I don't  
24 know.

25          Q.       Well, if you're wondering -- let me



1 show you a memo that was written by your boss to  
2 the MLS prescribers -- I mean, participants. I'm  
3 sorry.

4 MS. GOLIDAY: I'm not sure which  
5 exhibit number it is. It's that memo. I'm asking  
6 you because they're down there with you.

7 MR. MAXEY: Do you want something?

8 MS. GOLIDAY: Yes.

9 MR. MAXEY: What do you want? Why  
10 don't you come get it?

11 MS. GOLIDAY: I mean, I have copies  
12 of it, but --

13 MR. EDWARDS: The memo to all  
14 participants.

15 MR. WADE: Here it is.

16 MS. GOLIDAY, CONTINUED:

17 Q. Did you know that your supervisor was  
18 going to circulate that memo?

19 A. That she was going to?

20 Q. Yes.

21 A. We mailed it out, yes.

22 Q. Okay. Did you discuss that memo with  
23 her before it went out?

24 A. I'm sure. We all proofed it.

25 Q. Okay. Did y'all talk about why it

1 was necessary to send this out?

2 MR. CUMBEST: Excuse me for just a  
3 minute. Is it possible to turn down the air in  
4 the room? I see people fanning, and let's get a  
5 little comfortable in here.

6 (OFF THE RECORD.)

7 MS. GOLIDAY, CONTINUED:

8 Q. Just for the record, I want to make  
9 it clear, what exactly constitutes MLS service?  
10 What is it made up of? I know we've got the  
11 computer system that we've talked about. We've  
12 talked about the key to the lock boxes. Is there  
13 some other part to this service?

14 A. They're able to enter their listings  
15 by the internet.

16 Q. Okay. So that would be the MLS  
17 program; is that correct?

18 A. Uh-huh (affirmative response).

19 Q. Anything else?

20 A. That's probably about it, you know.

21 Q. Okay. And both of those services are  
22 administered through your office?

23 A. Yes.

24 Q. Okay. Now, the forms, those  
25 preprinted forms that people -- that the Realtors

1 used, is that administered through your office?  
2 A. Which preprinted forms?  
3 Q. Listing agreements. Zip forms.  
4 A. No, ma'am.  
5 Q. Okay. Do you know who administers  
6 that?  
7 A. They can get the zip forms through  
8 the state association.  
9 Q. Okay. And they pay for that, right?  
10 A. You would have to ask them. I'm not  
11 sure how they work out.  
12 Q. Okay. But is it your understanding  
13 that that's a preprinted form?  
14 A. I think it's a standard form, but I'm  
15 not sure because I don't deal with that.  
16 Q. Okay. In the conversation that you  
17 had with Mr. Wade in August, did you inform him  
18 about any fines or loss of service as related to  
19 MLS?  
20 A. I don't remember that.  
21 Q. Okay. All right.  
22 MS. GOLIDAY: I have no further  
23 questions for this witness.  
24 MR. MAXEY: Any follow-up?  
25 MR. EDWARDS: No.

1 MR. GILLESS: You're dismissed.

2 MR. MAXEY: You're dismissed.

3 REBECCA "BECKY" STACY,

4 having been first duly sworn,

5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. GOLIDAY:

8 Q. Please state your name for the  
9 record.

10 A. Rebecca Stacy.

11 Q. What do you do for a living,  
12 Ms. Stacy?

13 A. For whom, ma'am?

14 Q. For a -- for a job.

15 A. I'm the financial officer at the  
16 Jackson Association of REALTORS.

17 Q. Okay. How long have you been doing  
18 that?

19 A. Almost a year and a half.

20 Q. Okay. And what is your job title?  
21 What does your job require?

22 A. It requires me to do many things.  
23 I'm just the financial officer. I take care of  
24 the finances.

25 Q. What are your duties and

1 responsibilities?

2           A.       I receive pay -- I make bills,  
3 receive payments, do accounts payable, accounts  
4 receivable, payroll. Anything that a financial  
5 officer. . .

6           Q.       Okay. And I saw when you came in  
7 that you brought some documents with you. Are  
8 those documents related to this matter?

9           A.       They're just the things I picked up  
10 out of my briefcase. I can put them back out if  
11 that would be necessary.

12          Q.       No, I was just wondering, are you  
13 going to use them to testify?

14          A.       Oh, no. No, no. I just had things  
15 in my hand. I've been working all morning.

16          Q.       Oh, okay. That's what I was  
17 wondering.

18          A.       Yeah. No.

19          Q.       Do you recall whether you generated  
20 any bills -- because you said part of your job is  
21 generating bills -- if you generated any bills  
22 for Kim Wade or related to Kim Wade from  
23 June 15th, 2009, to present?

24          A.       I mean, not that I know of, no. I  
25 did not since June 15th, no.

1           Q.       Okay. Do you recall the last time  
2 that you sent a bill to Kim Wade?

3           A.       I believe the last time was June 1st.

4           Q.       Okay. And you sent a bill -- what  
5 was that bill to cover?

6           A.       To cover the MLS quarterly fees.

7           Q.       Okay. How much was that bill?

8           A.       165.

9           Q.       Did he pay that bill?

10          A.       June 27th.

11          Q.       Okay.

12                   MS. GOLIDAY: That's all the  
13 questions I have for you.

14                   MR. MAXEY: I have no questions.  
15 Does the board?

16                   MR. GILLESS: No, we don't.

17                   MR. MAXEY: You're excused.

18                   MS. GOLIDAY: I just have one last  
19 witness and that's for Kim Wade. That's Kim Wade.

20                               KIM WADE,  
21                   having been first duly sworn,  
22           was examined and testified as follows:

23                               DIRECT EXAMINATION

24 BY MS. GOLIDAY:

25           Q.       Please state your name for the

1 record.

2 A. Kim Wade.

3 Q. All right. Mr. Wade, do you  
4 understand the charges that are against you?

5 A. Actually, I do not.

6 Q. Okay.

7 A. I do not. I can't understand them.  
8 No, I do not.

9 Q. Do you understand why you're here?

10 A. Based on some -- Mr. Eubanks not  
11 wanting to pay me my commission.

12 Q. Okay. And why -- why is it that you  
13 believe that he doesn't wasn't -- didn't want to  
14 pay your commission?

15 A. Because he felt that the deal was  
16 going to close after the listing agreement expired  
17 and he would not owe a commission because of that.

18 Q. Okay. And as a result of him being  
19 angry about that, what did he do? What is your  
20 understanding of what he did?

21 A. He called everybody he could to, you  
22 know, smear my name. And as I explained to him  
23 about the earnest money, which is what the initial  
24 thing came up, he wanted the gentleman to put the  
25 earnest money up to cover the lease agreement. I

1 didn't -- like I told him, I didn't care if he  
2 leased the property. It didn't bother me.

3 But I tried to explain to him, I'm  
4 not the buyer's agent; I don't have the earnest  
5 money. He would have to get it from him. I  
6 already told the buyer's agent it's fine to  
7 release it as far as I was concerned. It didn't  
8 bother me. But because the buyer's agent didn't  
9 release it, he got mad with everybody. And that's  
10 when he began his tear.

11 Q. And so he basically wanted the  
12 earnest money released to him as a security  
13 deposit for his lease arrangement; is that  
14 correct?

15 A. That's correct.

16 Q. And that money was not released to  
17 him; is that correct?

18 A. I'm not certain what the -- what the  
19 disposition of that was. I did inform Blare over  
20 at Richardson Properties that it was fine to  
21 release as far as I was concerned.

22 Q. But that's the point in which he  
23 started getting angry; is that correct?

24 A. That's correct. That's correct.

25 Q. And that's the point in which he



1 started calling different people regarding this  
2 matter?

3 A. That's correct.

4 Q. All right. Now, we're here about  
5 your status with JAR and MLS. Please explain to  
6 me what you felt your status with JAR and MLS was  
7 on July -- in July of 2009.

8 A. I was in transition, that I would  
9 have full rights and privileges that comes along  
10 with the 30 days that I've had since 1996 in the  
11 transitions I made from Century 21 to Universal  
12 Homes and Properties, from Universal Homes and  
13 Properties to ERA, from ERA to -- back to  
14 Universal Homes, from Universal Homes back to  
15 Prestige, and from Prestige to Ann Prewitt in  
16 regard to the 30-day window, but it never took the  
17 30-day window because, you know -- it wasn't a big  
18 deal.

19 This particular time, when I left Ann  
20 Prewitt, we had a deal on the table. Mr. Leo  
21 Davis, there was one deal left. And out of that  
22 closing, I was going to pay the transfer fee. But  
23 I said, I've got 30 days to do it, so we --  
24 everything should fall right in place.

25 And everybody in here in real estate,

1 I'm sure everybody else is, especially those who  
2 work with the Commission, understand things don't  
3 go as planned. So I did not get the 30-day  
4 window. The listing agreement was signed in the  
5 30-day window.

6 Q. Okay. And this 30-day window that  
7 you -- did you understand that you had that for  
8 both MLS and JAR?

9 A. Absolutely.

10 Q. Has that -- and how long had you been  
11 a Realtor with JAR?

12 A. Since 1996.

13 Q. All right. And that is a sum total  
14 of almost 15 years?

15 A. Yes.

16 Q. Okay. And during that 15-year  
17 period, has it been your understanding that there  
18 exists a custom and practice in JAR/MLS that  
19 allows someone who is in that transition period  
20 30 days to -- a 30-day transition window in which  
21 they remain a member of both of those  
22 organizations?

23 A. Absolutely. And I think Jo's letter  
24 of August 17th just reaffirms that. She's under  
25 the same thing, that it was a 30-day window. They

1 made no distinction, she made no distinction,  
2 Beverly made no distinction that you're going to  
3 be cut off of one service or another. Nobody's  
4 made that distinction since I've been with the  
5 association. And even before 1996, I was a  
6 nonmember of the MLS.

7 Q. Okay. Now, you made a payment on  
8 your MLS -- you paid your quarterly dues for MLS  
9 June 27th, 2009; is that correct?

10 A. That's correct.

11 Q. Were you affiliated with Ann  
12 Prewitt's office on that day?

13 A. No. I had went out on my own, but I  
14 paid based on -- I don't get a 1st and a 15th as a  
15 commissioned agent. So when I have a commission,  
16 a deal to come through, I pay whatever I can pay  
17 at that point.

18 Q. Okay.

19 A. And that was something that I knew I  
20 was going to do. Because they -- they give you  
21 five days from the 1st to do -- to get your money  
22 in. After that, then you're actually delinquent  
23 on your dues. So I wanted to go on and get it in.

24 Q. And you paid those fees under the  
25 assumption that you were a member --

1           A.       Thirty days, yes.

2           Q.       -- within that 30-day window; is that  
3 correct?

4           A.       That's correct.

5           Q.       All right. Now, if you thought that  
6 you were not a member, would you have paid that  
7 amount?

8           A.       Absolutely not, because of the nature  
9 of my business. And like I said before, I had one  
10 deal working with -- that I had left there at --  
11 left there at Ann Prewitt, and -- and I had one  
12 deal that I was getting ready -- just had -- had  
13 just written up, but nothing was going to close  
14 within, you know, the foreseeable -- within the  
15 next 30, 45 days, which would have been outside  
16 that window. So I'm saying, well, let me go ahead  
17 and pay my MLS fees. I'll have that, have my key  
18 and stuff, have access to my key.

19          Q.       Okay. All right. Did you -- during  
20 this time, did you receive any notification from  
21 JAR or MLS from June of '09 until July of '09  
22 regarding your status?

23          A.       No, I did not. I have not received  
24 anything. I have not received the notice from  
25 them until we got this notice December 3rd, 2009.

1 And what's interesting about this particular  
2 letter -- no, the only notice I got from JAR  
3 regarding any of my associations with them, is the  
4 fact that I had just renewed my zip forms. This  
5 was written on the 3rd. I didn't receive it  
6 until, I think, on the 4th or 5th. I had renewed  
7 my zip forms on the 4th. So in order to renew it,  
8 you've got to be, you know, legal all the way  
9 around in terms of JAR and everybody else.

10 So, again, I'm getting all these  
11 reinforcement things that I remember. I feel like  
12 this is just an opportunity to retroactively go  
13 back and make me illegal, disparage me in front of  
14 my client, who received a full offer on his house.  
15 He had his house listed with a realtor, and they  
16 didn't get it sold. He got a full offer with no  
17 conditions. But for him being upset about having  
18 to pay a commission outside the listing period. . .

19 And I'm really disappointed that this  
20 association would do one of its long-term members  
21 this way. I could -- if he had got 174 --  
22 174,000, I would accept the punishment. I  
23 would -- I would -- I would have pled guilty. He  
24 got the full offer.

25 Q. Okay. Now, when we talk about these

1 customs and practices, based on your number of  
2 years in the association, who is -- as a matter of  
3 custom and -- as a matter of the custom, who  
4 generally is responsible for turning in the  
5 licensee change form?

6 A. In every instance in which I have  
7 made any type of changes, the previous broker that  
8 I worked for would send the form in, because they  
9 want them off their book. They want it off the  
10 books.

11 Prudential, Ann Prewitt, has an  
12 employee policy handbook in which all these  
13 documents have to be signed. And I signed them  
14 with Debbie Bridges. The expectation, these  
15 things would be forwarded on.

16 Ann sent me a notice two months  
17 later -- now, you've got to understand, I hadn't  
18 had no notice of anybody that there was anything  
19 wrong. My key is still working. I'm still good  
20 to go. Got my 30-day window that I'm operating  
21 on.

22 I get all this notice in December  
23 that what I did in July was illegal. I'm saying,  
24 wait a minute, I've got a 30-day window in which  
25 to operate from.

1                   They have testified that there's no  
2 documentation to tell us that these things -- oh,  
3 I'm supposed to read this, but yet on four  
4 different letters I got from Jo Usry, she could  
5 not explain to me my status.

6                   And so my point in all this is, is,  
7 guys, nobody attempted to mislead anybody about  
8 anything.

9           Q.       Okay. So as you sit here today, was  
10 it ever your intention to misrepresent your status  
11 on the MLS system?

12          A.       No.

13          Q.       All right. I also want to show -- go  
14 back to that closing document for that property  
15 that is not our subject property.

16          A.       Oh, the 608 Willow Bay?

17          Q.       Right. Could -- do you see it?

18          A.       There it is.

19                   MR. MAXEY: No, this is --

20                   THE WITNESS: Somebody has this  
21 listing agreement. Hold it up so they see what it  
22 looks like.

23                   MR. MAXEY: I think it's in there.  
24 It may be toward the end.

25                   MS. GOLIDAY: I think it is.

1 THE WITNESS: Yeah.

2 MS. GOLIDAY, CONTINUED:

3 Q. Okay. Now, is that a property  
4 that -- what exhibit number is that?

5 A. 27.

6 Q. Okay. And what is the property  
7 address for that property?

8 A. The property address is 618 Willow  
9 Bay.

10 Q. Did you sell that property?

11 A. I did.

12 Q. Okay. And when did it close?

13 A. Closed October 19th, 2009.

14 Q. Okay. Did you put that information  
15 down there regarding the closing details?

16 A. That information can only be inputted  
17 by the listing company.

18 Q. And who was the listing company?

19 A. This company is owned by the  
20 president of the Multiple Listing Service, RE/MAX  
21 Alliance, Lee Garland.

22 Q. All right. And so he put that  
23 information in there about you; is that correct?

24 A. He's ultimately responsible. I would  
25 imagine Theresa put it in there, unless they have



1 a designated person, like they have at some of the  
2 agencies. But you are correct, he's ultimately  
3 responsible for what goes into the system.

4 Q. Okay. And when was that --  
5 approximately, when was that put in?

6 A. The close date was 10/19. And  
7 assuming that they didn't backdate it, I would  
8 imagine they put it in on 10/19.

9 Q. And when it was put in the system,  
10 you were listed as the selling agent?

11 A. Yes. If I was not the -- I mean,  
12 yes. Yes.

13 Q. Okay. And how were they able to put  
14 your name in there as the selling agent?

15 A. The only way they could put my name  
16 in there is that I would still be in the system.

17 Q. Okay. So they couldn't just type in  
18 "Kim Wade"?

19 A. The only thing they could put in  
20 there would be a nonMLS member.

21 Q. So in order to put your name down  
22 there -- and I want to make sure that we're all  
23 clear about this -- that, literally, do they put  
24 in your number, and your name comes up? How does  
25 that work?

1           A.       If they're not certain, if they just  
2   say "Wade," in other words, there might be several  
3   Wades in the area. They put in "Wade," and oh,  
4   that's Kim Wade, click on that. And then it will  
5   populate it. Well, they can -- if they know my  
6   agent -- I mean, if they know my ID number, 4965,  
7   put that in there, it will come up.

8           Q.       Okay. But if you were -- if you had  
9   been determined not to have privileges to the  
10  service, would your name have appeared on that  
11  list?

12          A.       No.

13          Q.       Okay.

14                   MS. GOLIDAY: I have no further  
15  questions.

16                               CROSS-EXAMINATION

17  BY MR. MAXEY:

18          Q.       I'm going to hand you, Mr. Wade,  
19  Exhibit 3, that's been turned to the MLS printout.  
20  Do you recognize that?

21          A.       I do.

22          Q.       And whose property is being  
23  advertised there?

24          A.       John Eubanks'.

25          Q.       Okay. And how can you tell?

1           A.       It's got John -- well, it has  
2 Eubanks' name in the owner section.

3           Q.       And does it indicate what the listing  
4 date is?

5           A.       7/9. No, the -- well, the list date  
6 is -- generally, what goes in there is the date  
7 that you put it into the system. But that's fine.  
8 Yeah, the listing date, same date, I guess.

9           Q.       And that is the date that you listed  
10 the property for Mr. --

11          A.       No. The date that I listed the  
12 property with Mr. Eubanks was 07/05.

13          Q.       So that's four days after it was  
14 listed, actually?

15          A.       No. Well, four days it was listed.  
16 But I also listed it through Melissa Reese,  
17 Prestige Realty.

18          Q.       Now, did she sign the listing  
19 agreement?

20          A.       She doesn't need to. It's not  
21 required by Mississippi law.

22          Q.       My question is, did she?

23          A.       No.

24          Q.       Did Mr. -- was Mr. Eubanks made  
25 aware, by you, that she was neither the listing

1 property with you or had a relationship with you?

2 MS. GOLIDAY: Objection as to  
3 relevance. It's not related to the charges that  
4 are pending against him.

5 MR. MAXEY: I'm asking him the  
6 question. I think I've got a right to ask him  
7 that question. Mr. Eubanks has testified that he  
8 had no knowledge of Ms. Reese.

9 MS. GOLIDAY: I understand that, but  
10 that's not related to the charges that are against  
11 Mr. Wade. I'm going to directly instruct him not  
12 to answer because it's not related to the charges.

13 MR. MAXEY: I respectfully suggest  
14 you can't instruct the witness at a hearing not to  
15 answer. You can at a deposition, but not a  
16 hearing.

17 MS. GOLIDAY: Okay.

18 MR. MAXEY: Of course, if you want to  
19 do that, I think you, you know, seek the  
20 consequence of that. Are you instructing him not  
21 to answer?

22 MS. GOLIDAY: It's not related. It's  
23 not relevant.

24 MR. MAXEY: We would like to go  
25 forward with that.

1                   MR. GILLESS: Well, you know, it's  
2 been talked about previous, so I don't see -- you  
3 know, anything that's been brought up during this  
4 hearing, I think, you know, if it was relevant  
5 then, it's relevant now.

6 MR. MAXEY, CONTINUED:

7           Q.       Did you tell Mr. Eubanks that you had  
8 co-listed the property or listed this through  
9 Prestige Realty and Melissa Reese?

10          A.       He gave me permission on the listing  
11 agreement.

12          Q.       If you don't mind answering the  
13 question, then you can explain your answer. Did  
14 you tell him?

15          A.       He gave me permission under the  
16 listing agreement.

17          Q.       So you're not going to answer the  
18 question?

19          A.       I answered the question.

20                 MS. GOLIDAY: That is the answer to  
21 the question.

22                 THE WITNESS: Huh?

23                 MS. GOLIDAY: I'm saying you did  
24 answer the question.

25 MR. MAXEY, CONTINUED:

1           Q.       Now, is your telephone number listed  
2 on this form?

3           A.       It is.

4           Q.       Where is it listed?

5           A.       Right there in the lower, right-hand  
6 corner.

7           Q.       What's your telephone number?

8           A.       601-594-8882.

9           Q.       And it's listed as the owner's phone,  
10 is it not?

11          A.       That is correct.

12          Q.       Did Mr. Eubanks authorize you to put  
13 his -- your number in there as his?

14          A.       He did.

15          Q.       Now, my question is, if you were a  
16 member of MLS, as you contend you were at this  
17 time, you could have put your own name as part of  
18 the advertisement, could you have not?

19          A.       Not until Ann Prewitt had done what  
20 she did or I exercised my 30-day option.

21          Q.       So are you saying that you were or  
22 were not a member of MLS at the date of this  
23 listing?

24          A.       I was, yeah.

25          Q.       But you didn't use your membership to

1 list it in the MLS, did you?

2           A.           The situation is, I -- the  
3 arrangement is not illegal neither under MLS or  
4 state law. So the arrangement we have to put it  
5 in there is actually an irrelevant question, and  
6 it goes to whether or not -- unless you can tell  
7 me what I've done is illegal by state law, by  
8 having me and Melissa's arrangement, then what  
9 here is illegal, because I was a member, based on  
10 the fact that the Multiple Listing Service took my  
11 money, Multiple Listing Service gave us 30-day  
12 windows, which is the common practice and custom  
13 for the last 20 years I have been affiliated with  
14 this.

15                   They have shown nothing in the record  
16 contrary to say that I did not have service. I  
17 have spoken with Beverly Hickey, and I've spoken  
18 with Jo Usry via e-mail, and none of them  
19 indicated that I would be illegal or subject to  
20 any type of inactivity.

21                   And to go back retroactively, I  
22 think, is -- again, is a travesty.

23                   MR. MAXEY: No further questions.

24                   MS. GOLIDAY: I've just got a few  
25 follow-up. Could you give me one second? We'll

1 just go off for a few minutes.

2 (OFF THE RECORD.)

3 MS. GOLIDAY: I've got one little  
4 follow-up.

5 REDIRECT EXAMINATION

6 BY MS. GOLIDAY:

7 Q. On this group of documents that  
8 existed -- are attached as Exhibit 3, and this  
9 exclusive agent authorization and right to sell  
10 listing agreement that was submitted by  
11 Mr. Eubanks, Mr. Wade, will you look at it and  
12 tell me whether that document is signed by  
13 Mr. Eubanks?

14 A. It is not.

15 Q. Okay. Now, the agreement that you  
16 entered into with him, was it signed?

17 A. It is. There is a copy there you  
18 have.

19 Q. Okay. So that document that is  
20 actually attached there is not the contract that  
21 you entered into with Mr. Eubanks?

22 A. That is correct. And I think he knew  
23 it when he submitted it as evidence that I had  
24 done something wrong.

25 MS. GOLIDAY: All right. I have no



1 further questions.

2 MR. MAXEY: Does the Commission have  
3 follow-ups?

4 MR. GILLESS: No.

5 MR. MAXEY: We have nothing further  
6 of Mr. Wade. He may be excused.

7 MS. GOLIDAY: All right.

8 MR. MAXEY: That's the end of the  
9 hearing, unless you have anything further. Do you  
10 have any further witnesses?

11 MS. GOLIDAY: No.

12 MR. MAXEY: We have no further  
13 witnesses.

14 Do you want to close the record at  
15 this time, Mr. Chairman?

16 MR. GILLESS: If there's no -- if  
17 there's nothing else, then these proceedings are  
18 closed, and we will retire for deliberation.

19 (CONCLUDED AT 3:48 P.M.)

20

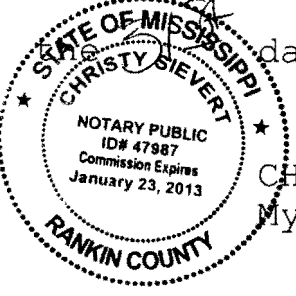
21

22

23

24

25

1 CERTIFICATE OF COURT REPORTER  
2 I, Christy R. Sievert, CSR, RPR, Court  
3 Reporter, and Notary Public in and for the County  
4 of Rankin, State of Mississippi, hereby certify  
5 that the foregoing pages, and including this page,  
6 contain a true and correct transcript of the  
7 proceedings, as taken by me at the time and place  
8 heretofore stated, and later reduced to  
9 typewritten form by computer-aided transcription  
10 under my supervision and to the best of my skill  
11 and ability.  
12 I further certify that I placed the  
13 witnesses under oath to truthfully answer the  
14 questions in this matter under the power vested in  
15 me by the State of Mississippi.  
16 I further certify that I am not in  
17 the employ of or related to any counsel or party  
18 in this matter, and have no interest, monetary or  
19 otherwise, in the final outcome of the  
20 proceedings.  
21 Witness my signature and seal this  
22 day of August, 2010.  
23  CHRISTY R. SIEVERT, CSR, RPR #1421  
24 My Commission Expires January 23, 2013  
25