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FILED
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DIVISION OF
ADMINISTRATIVE
HEARINGS

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
FLORIDA REAL ESTATE COMMISSION

Final Order No. BPR-2002-03998 Date: 11-1-02
FILED
Department of Business and Professional Regulation
AGENCY CLERK
Sarah Wachman, Agency Clerk

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
DIVISION OF REAL ESTATE

By: Brandon M. Nichols

Petitioner

vs.

AP

CASE NO. 9983037
DOAH NO. 02-0138 REM-CWS

WAYNE WAGIE

Respondent

FINAL ORDER

On August 21, 2002, pursuant to Sections 120.569 and 120.57(1) of the Florida Statutes, the Florida Real Estate Commission heard this case to issue a Final Order.

Administrative Law Judge Robert E. Meale of the Division of Administrative Hearings presided over a formal hearing on July 9, 2002, and issued a Recommended Order. A copy of the Recommended Order is attached and incorporated herein as Exhibit A.

Petitioner filed Exceptions to the Recommended Order. A copy of the Exceptions is attached and incorporated herein as Exhibit B.

After completely reviewing the record and being otherwise fully advised, the Commission accepts Petitioner's Exceptions, which address the paragraph no. 28 of the Conclusions of Law in the Recommended Order. The Commission finds that it cannot automatically suspend Respondent for failure to comply with a penalty. Therefore, the Commission strikes the following phrase: "however, if Respondent fails to pay the fine in full within 180 days of the final order, his license will be revoked without further notice."

The Commission finds that Respondent violated Sections 475.25(1)(b), 475.25(1)(e), 475.25(1)(k), 475.42(1)(c), Florida Statutes, and Florida Administrative Code Rule 61J2-14.012 , and therefore, guilty of issuing checks from the escrow account without having sufficient money in the account to fund the checks and guilty of culpable negligence, breach of trust, misrepresentation and concealment; failing to properly reconcile escrow accounts; employing and continuing to employ a person he knew not to be the holder of a valid and current, active real estate license; and violating a lawful order of the Commission.


Based upon a complete review of the record and after being fully advised, the Commission **adopts** all Exceptions Petitioner filed and the Recommended Order as amended.

Therefore, based upon a complete review of the record, Exceptions to the Recommended Order and Response to the Exceptions, the Commission **ORDERS** that license of Respondent be suspended for a period of three years and that Respondent pay an administrative fine of \$5,000 within six months of the effective date of this order.

This Final Order shall be effective thirty days from date of filing with the Clerk of the Department of Business and Professional Regulation. However, any party affected by this Order has the right to seek judicial review, pursuant to Section 120.68 of the Florida Statutes, and to Section 9.110 of the Florida Rules of Appellate Procedure.

Within thirty days of the filing date of this Final Order, review proceedings may be instituted by filing a Notice of Appeal with the Clerk of the Department of Business and Professional Regulation at Suite 308N, 400 West Robinson Street, Orlando, Florida 32801. At the same time, a copy of the Notice of Appeal with applicable filing fees must be filed with the appropriate District Court of Appeal.

DONE AND ORDERED this 21st day of August 2002 in Orlando, Florida.



Director

Division of Real Estate

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true copy of the foregoing was sent by U.S. Certified Mail to: Wayne Wagie, 11900 North Bayshore Drive #5, Miami, Florida 33181; the Division of Administrative Hearings, 1230 Apalachee Parkway, Tallahassee, FL 32399-3060; and a copy provided to Juana Watkins, Esquire, DBPR, 400 W Robinson Street 308N, Orlando, FL 32802, this 1st day of November 2002.

Brandon M. Nichols