

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	10/4/2018
File #	2018-08300

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

IN RE: PETITION FOR DECLARATORY STATEMENT
BY DEBORAH L. WISE, P.A.

DS 2018-054

FINAL ORDER

This Petition for Declaratory Statement came before the Florida Real Estate Commission (Commission), pursuant to Section 120.565, Florida Statutes, at its regularly scheduled meeting in Orlando, Florida on September 17-19, 2018. The Applicant was present.

The Commission reviewed the Application and supporting materials, and being otherwise fully apprised in the circumstances, found the following:

Findings of Fact

1. The facts considered by the Commission and adopted are as stated in the Petition, a copy of which is attached hereto and incorporated by reference.
2. Petitioner asks the Commission if her team advertising materials can continue to include the word "property" after July 1, 2019.

Conclusions of Law

3. Section 120.565, Florida Statutes, provides in part:

120.565 Declaratory statement by agencies.-

(1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.

(2) The petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances.

Shall be final agency action.

§ 120.565 (1) and (2), Fla. Stat.

4. Rule 61J2-10.026, Florida Administrative Code,

provides:

61J2-10.026 Team or Group Advertising.

(1) "Team or group advertising" shall mean a name or logo used by one or more real estate licensees who represent themselves to the public as a team or group. The team or group must perform licensed activities under the supervision of the same broker or brokerage.

(2) Each team or group shall file with the broker a designated licensee to be responsible for ensuring that the advertising is in compliance with chapter 475, Florida Statutes, and division 61J2, Florida Administrative Code.

(3) At least once monthly, the registered broker must maintain a current written record of each team's or group's members.

(4) Team or group names. Real estate team or group names may include the word "team" or "group" as part of the name. Real estate team or group names shall not include the following words:

- (a) Agency
- (b) Associates
- (c) Brokerage
- (d) Brokers
- (e) Company
- (f) Corporation
- (g) Corp.
- (h) Inc.


- (i) LLC
 - (j) LP, LLP or Partnership
 - (k) Properties
 - (l) Property
 - (m) Real Estate
 - (n) Realty
 - (o) Or similar words suggesting the team or group is a separate real estate brokerage or company
- (5) This rule applies to all advertising.
- (6) Advertisements containing the team or group name shall not appear in larger print than the name or logo of the registered brokerage. All advertising must be in a manner in which reasonable persons would know they are dealing with a team or group.
- (7) All advertisements must comply with these requirements no later than July 1, 2019.
- Nothing in this rule shall relieve the broker of their legal obligations under chapter 475, Florida Statutes, and division 61J2, Florida Administrative Code.

R. 61J2-10.026, Fla. Admin. Code.

6. Rule 61J2-10.026, Florida Administrative Code, requires that advertisements must comply with the rule by July 1, 2019. Petitioner asks if she may continue to use her materials after that date. Because Petitioner is advertising a team and her advertising materials include the word "property," the materials may not be used after July 1, 2019.

7. The application of this Final Order is limited to the set of facts incorporated herein. This Final Order shall be effective upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE and ORDERED this 2nd day of October, 2018.



Florida Real Estate Commission
by Lori Crawford
Executive Director

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED

TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES.

REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF

APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING

ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A

SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH

THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE

PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY

(30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Final Order has been provided by: U.S. Mail to Deborah Wise, 1615 N. Oleander Avenue, Daytona Beach, FL 32118; and, by interoffice mail to the Division of Real Estate, 400 W. Robinson Street, Suite N 801, Orlando, Florida 32801-1757 on this 4th day of October, 2018.

Brandon M. Nichols

DS 2018-054

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Department of Business and Professional Regulation	
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PETITION FOR A DECLARATORY STATEMENT BEFORE
THE FLORIDA REAL ESTATE COMMISSION

Pursuant to Section 120.565, Florida Statutes, and 28.105 Florida Administrative Code, Deborah L. Wise, as representative for Deborah L. Wise PA, files a petition for a Declaratory Statement and States:

1. Upon receipt of 6112-10.026 Team or Group Advertising, dated 06/18/18 (addendum 1), it has come to my attention that the term "Property" can no longer be used as part of team advertising. This ruling has been established, as I understand it, in an effort not to confuse the activities of sales associates of a particular broker with the activities of the broker itself.
2. Upon receiving my real estate license in January 2018 (SL3404865), I endeavored to create a brand that would incorporate my background and expertise as a college professor with my desire to be a mentor/consultant with buyers and sellers in the real estate process. This brand would not only serve my individual efforts but the efforts of a team as my practice grew, and ultimately could transition into my brand as a broker, should I choose to obtain a broker's license.
3. My brand logo, called the Property Professors, utilizes not only the term "Property" but also includes an owl (because of my last name) with a graduation cap, using a teacher's pointer to point at the term "Property Professors". The logo also includes my name, Deborah L. Wise, PhD, and my nickname "Dr. Deb". I designed the brand and logo with the clear intent of differentiating myself as someone who educates others in the real estate process. This logo has been registered as a service mark under my professional association, Deborah L. Wise, PA in the state of Florida.
4. Prior to printing or otherwise using the brand/logo, I brought it to the attention of Keller Williams, my broker at the time. After receiving permission to use the brand/logo, I then invested considerable money in marketing materials, cards, and signage. I have since left Keller Williams and have joined Robert Slack Fine Homes. To continue to use my marketing materials I swapped broker logos, maintaining the broker logo dimensions. I am currently using my brand/logo on:
 - a. Clothing (with the broker name plate)
 - b. Business cards
 - c. Web and social media presence
 - d. Automobile advertising


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DIVISION OF REAL ESTATE

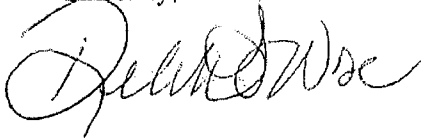
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5. To obtain a better understanding of the team advertising ruling I called the Florida Realtors Legal Hotline. There I was able to ascertain that while I fell under the team advertising ruling at this time, it would not apply should I obtain a broker's license and become a Florida Real Estate Broker. Given my tenure as a licensee I cannot apply for a broker's license until early 2020. At this moment, I am not confident I want to become a broker, which is why I am hoping to obtain a declaratory statement for use as a team of associates.

6. In summary: A tremendous amount of thought and expense went into the design of the Property Professors brand/logo. Creating a brand that gave honor to the hard work and time I spent as an educator and researcher was essential to differentiating myself as a realtor. This brand is ME. It incorporates my history, it incorporates my name and the owl as a way to remember my name. While my tenure as a realtor has been short to date, I have not worked with anyone – buyer, seller, fellow realtors, or brokers – who have confused my activities using this brand with the activities of a broker. I ask for a declaratory statement, as a proactive measure, in order to be compliant with the Florida Real Estate Commission going forward.

Sincerely,



Deborah L. Wise, PhD,

The Property Professors @ Robert Slack Fine Homes

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(7) All advertisements must comply with these requirements no later than July 1, 2019.

Nothing in this rule shall relieve the broker of their legal obligations under chapter 475, Florida Statutes, and division 61J2, Florida Administrative Code.

Rulemaking Authority 475.05, 475.25(1)(c) FS. Law Implemented 475.25 FS. History--New 6-18-18.

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