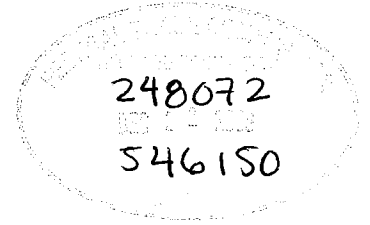


ORIGINAL

PUBLIC

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION



COMMISSIONERS J. J. ...

Pamela Jones Harbour
William E. Kovacic
J. Thomas Rosch

In the Matter of

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INTRODUCTION

In its Motion for Partial Stay of Order Pending Appeal (“Motion for Stay”), respondent Realcomp II, Ltd. (“Realcomp”) seeks a partial stay of the Commission’s October 30, 2009, Final Order (“Order”), pursuant to 16 C.F.R. § 3.56, until the final disposition of its appeals in federal courts. Complaint Counsel and Realcomp agree on the factors governing a decision whether to grant the stay: (1) the likelihood of the applicant’s success on appeal; (2) whether the applicant will suffer irreparable harm if a stay is not granted; (3) the degree of injury to other parties likely to result from the requested stay; and (4) why the stay is in the public interest. *See* Motion for Stay at 2-3 (citing 16 C.F.R. § 3.56(c); *Washington Metro. Area Transit Commission v. Holiday Tours, Inc.*, 559 F.2d 841, 844-845 (D.C. Cir. 1977); *In re California Dental Association*, 1996 FTC LEXIS 277, at *2-3 (May 22, 1996)); Complaint Counsel’s Opposition (“CC Opp.”) at 2. Realcomp addressed each of those standards in its Motion for Stay. Complaint Counsel’s Opposition raises no

valid basis to conclude that Realcomp has established a prima facie case for a partial stay of the Order pending appeal.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

which the Commission observed that the respondent's "primary arguments in favor of their

likelihood of success on the merits are unavailing. Commission Decision No. 15-131

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

In this regard, Complaint Counsel objects to our assertion that the conflict between the findings and conclusions of the Commission and those of Chief Administrative Law Judge M.C. [REDACTED]

in this matter itself is strong evidence that Deolcom can demonstrate likelihood of success in [REDACTED]

riding by home sellers who compete with Realcomp members and by eliminating a bidding disadvantage for home buyers who are represented by a cooperating broker.² Complaint Counsel disputes the validity of Realcomp's arguments, but that is truly a question for appeal. If Realcomp

cannot be quantified and will not be recoverable in the form of monetary damages or otherwise, and

~~CONFIDENTIAL~~

For the reasons set forth above and in its Motion for Stay, Respondent Realcomp II, Ltd. requests that the Commission stay its order of October 10, 2009, *et al.*

thereof, during the pendency of appeals in the federal courts.

Respectfully submitted,

Exhibit A

(attached)

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
Pamela Jones Harbour
William E. Kovacic
J. Thomas Rosch

In the Matter of

Docket No. 9320

REALCOMP, LTD.

AFFIDAVIT OF KAREN KAGE

Karen Kage, being sworn, deposes and says:

That she is the President of REALCOMP, LTD.

will be frustrated.

(b) Instituting the changes required by the Order will subject Realcomp and its members to the harmful effects of free riding by persons who are not members and who seek to utilize the promotional means paid for by Realcomp members to sell their homes without paying the associated costs. In the event Realcomp prevails on appeal, Realcomp's members will have been subjected to harm in the form of lost sales opportunities that cannot be quantified and will not be recoverable. This also will result in loss of goodwill by Realcomp among its members

Public

Karen Kage
Karen Kage

Subscribed and sworn to before me this
21 day of December, 2009

Gloria Baykian
Notary Public, State of Michigan
Oakland County, Michigan
My Commission Expires: Nov. 29, 2012
Acting in County of Oakland

793025_1.DOC

GLORIA BAYKIAN
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES: 11/29/12

Certificate of Service

22nd

[REDACTED]