

**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

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

In the Matter of  
  
AUSTIN BOARD OF REALTORS,  
  
a corporation.

Docket No. \_\_\_\_\_

**COMPLAINT**

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the Austin Board of Realtors (“Respondent” or “ABOR”), a corporation, also trading and doing business as Austin/Central Texas Realty Information Service has violated and is violating Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint stating its charges as follows:

**NATURE OF THE CASE**

This case involves a local, private real estate association that operates a Multiple Listing Service, which is a joint venture among its members designed to foster real estate brokerage services. ABOR has adopted a rule that limits the publication of certain listing agreements on popular internet real estate web sites, in a manner that injures real estate brokers that use such listing agreements viceem(busineCv9(.Td(Compete brokersL9es, in a manner sem\*c o-1.15 T6nd 0 Tdabrokers

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## **ABOR MARKET POWER**

18. The provision of residential real estate brokerage services to sellers and buyers of real property in the Austin, Texas and/or the ACTRIS Service Area is a relevant service market.

19. The publication and sharing of information relating to residential real estate listings for the purpose of brokering residential real estate transactions is a key input to the provision of real estate brokerage services, and represents a relevant input market. Publication of listings through ACTRIS is generally considered by sellers, buyers and their brokers to be the fastest and most effective means of obtaining the broadest market exposure for property in the ACTRIS Service Area.

20. By virtue of industry-wide participation and control over a key input, ABOR and ACTRIS have market power in the ACTRIS Service Area.

21. Membership or participation in ACTRIS is essential to a broker providing effective residential real estate brokerage services to sellers and buyers of real property in the ACTRIS Service Area. Membership significantly increases the opportunities of brokerage firms to enter into listing agreements with residential property owners, and significantly reduces the costs of obtaining up-to-date and comprehensive information on listings and sales. The realization of these opportunities and efficiencies is important for brokers to compete effectively in the provision of residential real estate brokerage services in the ACTRIS Service Area.

## **APPROVED WEB SITES ARE KEY INPUTS**

22. Access to the Approved Web Sites is a key input in the brokerage of residential real estate sales in the ACTRIS Service Area. Home buyers regularly use the Approved Web Sites to assist in their search for homes. The Approved Web Sites are the web sites most commonly used by home buyers in their home search. Many home buyers find the home that they ultimately purchase by searching on Approved Web Sites.

23. The most efficient, and at least in some cases the only, means for ABOR members to have their properties listed on the Approved Web Sites is by having ACTRIS transmit those listings.

24. Property owners and their brokers in the ACTRIS Service Area generally consider publication of listings on Approved Web Sites, in conjunction with publication of listings on the ACTRIS MLS, to be the most effective means of obtaining the broadest market exposure for residential property in the ACTRIS Service Area.

## **EFFECTS OF WEB SITE POLICY**

25. The Web Site Policy has reduced the use of Exclusive Agency Listings in the ACTRIS Service Area. Prior to the initiation of the Web Site Policy, about 1,500 of 8,500, or 18 percent, of the listings on ACTRIS were Exclusive Agency L

implemented, the number of Exclusive Agency Listings dropped to about 250 out of 10,000, or 2.5 percent.

26. The Web Site Policy may reduce consumer choices regarding both the purchase and sale of homes and cause consumers to pay for real estate brokerage services that they would not otherwise buy.

#### **THE WEB SITE POLICY OFFERS NO EFFICIENCY BENEFIT**

27. There is no cognizable and plausible efficiency justification for the Web Site Policy. The Web Site Policy is not reasonably ancillary to the legitimate and beneficial objectives of the MLS.

#### **VIOLATION**

28. In adopting the policies and engaging in the Acts and Practices described herein, ABOR has been and is acting as a combination of its members, or in conspiracy with some of its members, to restrain trade in the provision of residential real estate brokerage services within metropolitan Austin, Texas and/or the ACTRIS Service Area.

29. The purposes, capacities, tendencies, or effects of the policies, acts, or practices of ABOR and its members as described herein have been and are unreasonably to restrain competition among brokers, and to injure consumers.

30. The policies, acts, practices, and combinations or conspiracies described herein constitute unfair methods of competition in or affecting interstate commerce in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45.

**WHEREFORE, THE PREMISES CONSIDERED,** the Federal Trade Commission on this \_\_\_\_ day of \_\_\_\_, 2006, issues its Complaint against Respondent Austin Board of Realtors.

By the Commission

Donald S. Clark  
Secretary