



described in Commission Rule 2.34, 16 C.F.R. § 2.34 (2004), the Commission hereby makes the following jurisdictional findings and issues the following Order:

1. Respondent Austin Board of Realtors is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business at 10900 Stonelake Boulevard, Suite 100, Austin, Texas 78759.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that for the purposes of this Order, the following definitions shall apply:

- A. “Respondent” or “ABOR” means the Austin Board of Realtors, its predecessors, divisions and wholly or partially owned subsidiaries, affiliates, partnerships, and joint ventures; and all the directors, officers, employees, consultants, agents, and representatives of the foregoing. The terms “subsidiary,” “affiliate” and “joint venture” refer to any person in which there is partial or total ownership or control by the ABOR, and is specifically meant to include ACTRIS and Austinhomesearch.com.
- B. “ABOR Member” means any person that holds any class of membership in ABOR as defined by ABOR’s by-laws, policies and/or rules.
- C. “Multiple Listing Service” or “MLS” means a cooperative venture by which real estate brokers serving a common market area submit their listings to a central service which, in turn, distributes the information for the purpose of fostering cooperation in and facilitating real estate transactions.
- D. “ACTRIS” means the Austin/Central Texas Realty Information Service, a wholly-owned subsidiary of ABOR, which operates the MLS organized and directed by ABOR.
- E. “ACTRIS Participant” means any person authorized by ACTRIS to use or enjoy the benefits of ACTRIS, including but not limited to Participants, Subscribers and Authorized Assistants as those terms are defined in the Austin Board of Realtors Austin/Central Texas Realty Information Service Rules and Regulations.
- F. “IDX” means the internet data exchange process that converts the MLS listing database to a database that can be integrated within any web site.

II.

IT IS FURTHER ORDERED that Respondent ABOR, its successors and assigns, and its directors, officers, committees, members, agents, representatives, and employees, directly or indirectly, or through any corporation, subsidiary, division, or other device, in connection with the operation of a Multiple Listing Service or Approved Web Sites in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 45, shall forthwith cease and desist from adopting or enforcing any policy, rule, practice or agreement to deny, restrict or interfere with the ability of ABOR Members or ACTRIS Participants to enter into Exclusive Agency Listings or other lawful listing agreements with the sellers of properties, including but not limited to any policy, rule, practice or agreement to:

1. prevent ABOR Members or ACTRIS Participants from offering or accepting Exclusive Agency Listings;
2. prevent ABOR Members or ACTRIS Participants from cooperating with listing brokers or agents that offer or accept Exclusive Agency Listings;
3. prevent ABOR Members or ACTRIS Participants from publishing information concerning listings offered pursuant to Exclusive Agency Listings on Approved Web Sites;
4. deny or restrict the Services of the MLS to Exclusive Agency Listings or other lawful listings in any way that such Services of the MLS are not denied or restricted to Exclusive Right to Sell Listings; and
5. treat Exclusive Agency Listings, or any other lawful listings, in a less advantageous manner than Exclusive Right to Sell Listings, including but not limited to, any policy, rule or practice pertaining to the transmission, downloading, or displaying of information pertaining to such listings.

Provided, however, that nothing herein shall prohibit the Respondent from adopting or enforcing any policy, rule, practice or agreement regarding membership requirements, payment of dues, administrative matters, or any other policy, rule, practice or agreement, that it can show is reasonably ancillary to the legitimate and beneficial objectives of the MLS.

III.

IT IS FURTHER ORDERED that Respondent shall, no later than thirty (30) days after the date this Order becomes final, amend its rules and regulations to conform to the provisions of this Order.

