

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

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

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In the Matter of

Rgmda Jones Harbour

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concerted refusal to deal except on specified terms with respect to a key input for the provision of real estate services.

10. The acts and practices of MCAR, including the acts and practices alleged herein, have been or are in or affecting commerce within the meaning of Section 4 of the Federal Trade Commission Act.

MCAR CONDUCT

11. In October 2004, MCAR's Board of Directors adopted a rule, which was then implemented, that stated: "Listing information downloaded and/or otherwise displayed pursuant

MCAR MARKET POWER

18. The provision of residential real estate brokerage services to sellers and buyers of real property in Monmouth County and Ocean County, New Jersey and/or the MOMLS 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 the MOMLS 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 Monmouth County and Ocean County, New Jersey.

20. By virtue of industry-wide participation and control over a key input, MCAR and the MOMLS, have market power in Monmouth County and Ocean County, New Jersey.

21. Participation in the MOMLS is essential to a broker providing effective residential real estate brokerage services to sellers and buyers of real property in the MOMLS Service Area. Participation 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 Monmouth County and Ocean County, New Jersey.

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 Monmouth County and Ocean County, New Jersey. 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 purchased by searching on Approved Web Sites.

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

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

EFFECTS OF WEB SITE POLICY

25. The Web Site Policy restricted competition by inhibiting the use of Exclusive Agency Listings in Monmouth County and Ocean County, New Jersey and the MOMLS Service Area.

26. The Web Site Policy may have reduced consumer choices regarding both the purchase and sale of real estate in the State of New Jersey. The Web Site Policy 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 MCAR.

VIOLATION

28. In adopting the policies and engaging in the Acts and Practices described herein, MCAR had been and was acting as a combination of its participants, or in conspiracy with some of its