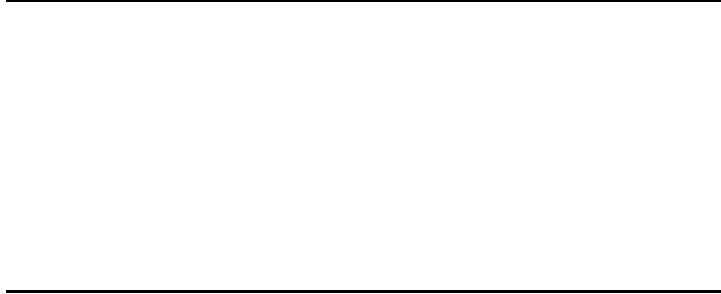


051 0217

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

**Commissioners:**

**Deborah Platt Majoras, Chairman  
Pamela Jones Harbour**



1. Respondent Monmouth County Association of Realtors (“MCAR”) is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey. Respondent’s principal place of business is at One Hovchild Plaza, 400 Route 66, Tinton Falls, New Jersey 07753.

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 “MCAR” means the Monmouth County Association 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 MCAR, and is specifically meant to include the Monmouth/Ocean Multiple Listing Service and MOMLS.com.
- B. “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.
- C. “Monmouth/Ocean Multiple Listing Service,” “Monmouth/Ocean MLS” or “MOMLS” means the Multiple Listing Service owned, operated, or controlled by MCAR.
- D. “MCAR Member” means any person that holds any class of membership in MCAR as defined by MCAR’s by-laws, po

- G. “IDX Web Site” means a Web Site that is capable of integrating the MLS listing database within the Web Site.
- H. “MOMLS.com” means the Web Site operated by MCAR that allows the general public to search information concerning real estate listings from the Monmouth/Ocean Multiple Listing Service.
- I. “Realtor.com” means the Web Site operated by the National Association of Realtors that allows the general public to search information concerning real estate listings downloaded from a variety of MLSs representing different geographic areas of the country, including but not limited to real estate listings from the Monmouth/Ocean Multiple Listing Service.
- J. “Approved Web Site” means a Web Site to which MCAR provides information concerning listings for publication including, but not limited to, MCAR Member or MOMLS Participant IDX Web Sites, MOMLS.com, and Realtor.com.
- K. “Exclusive Right to Sell Listing” means a listing agreement under which the property owner or principal appoints a real estate broker as his or her exclusive agent for a designated period of time, to sell the property on the owner’s stated terms, and agrees to pay the listing broker a commission when the property is sold, regardless of whether the buyer is found by the listing broker, the owner or another broker.
- L. “Exclusive Agency Listing” means a listing agreement under which the listing broker acts as an exclusive agent of the property owner or principal in the sale of a property, but also reserves to the property owner or principal a right to sell the property without assistance from a broker, in which case the listing broker is paid a reduced commission or no commission when the property is sold.
- M. “Services of the Monmouth/Ocean MLS” means the benefits and services provided by MCAR to assist MOMLS Participants in selling, leasing and valuing property and/or brokering real estate transactions. With respect to real estate brokers or agents representing home sellers, Services of the Monmouth/Ocean MLS shall include, but are not limited to:
1. having the property included among the listings in the Monmouth/Ocean MLS in a manner so that information concerning the listing is easily accessible by cooperating brokers; and
  2. having the property publicized through means available to the Monmouth/Ocean MLS, including, but not limited to, information concerning the listing being made available on MOMLS.com, Realtor.com and IDX Web Sites.

- N. “Other Lawful Listing” means any listing agreement, other than Exclusive Right to Sell Listing or Exclusive Agency Listing, which is in compliance with applicable state laws and regulations.

## II.

**IT IS FURTHER ORDERED** that Respondent MCAR, 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 Site 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 MCAR Members or MOMLS Participants to enter into Exclusive Agency Listings or Other Lawful Listings with the sellers of properties, including but not limited to any policy, rule, practice or agreement to:

1. prevent MCAR Members or MOMLS Participants from offering or accepting Exclusive Agency Listings;
2. prevent MCAR Members or MOMLS Participants from cooperating with listing brokers or agents that offer or accept Exclusive Agency Listings;
3. prevent MCAR Members or MOMLS Participants from publishing information concerning listings offered pursuant to Exclusive Agency Listings on Approved Web Sites;
4. deny or restrict the Services of the Monmouth/Ocean MLS to Exclusive Agency Listings or Other Lawful Listings in any way that such Services of the Monmouth/Ocean 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

**III.**

**IT IS FURT**

