

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES



_____)
In the Matter of _____)
_____)
REALCOMP II LTD., _____)
Respondent. _____)
_____)

Docket No. 9320

ORDER DENYING RESPONDENT'S
MOTION FOR SUMMARY DECISION

I. PROCEDURAL BACKGROUND

REALCOMP II LTD. ("Respondent") filed its Motion and Points of Authority for Dismissal

("Motion") on April 23, 2007. Although titled as a motion for dismissal, Respondent's motion effectively seeks summary decision pursuant to 16 C.F.R. § 3.24 and thus will be treated as a motion for summary decision. Complaint Counsel filed its Opposition to Respondent's Motion for Dismissal ("Opposition") and its Statement of Disputed Facts on May 4, 2007. For the

hired as the exclusive agent of the home owner to find an interested buyer, "lists" the property on the MLS, and may provide a variety of services to the seller, including marketing the home, negotiating offers on the property, and assisting sellers with the "closing" of the transaction. Opposition at 2 (citing RX 154 at 8-9). Cooperating Brokers work with prospective buyers interested in purchasing a home, search the MLS on behalf of those buyers, and may provide a range of other services such as accompanying buyers during property visits and negotiating a

contract with the seller. Opposition at 2 (citing RX 154 at 9, 27). Complaint Counsel further

explains that cooperating brokers may be compensated by the buyer, but they are most often

compensated by the Listing Broker as payment for finding a buyer who purchases the home

certain websites (including Realtor.com) otherwise approved to receive information concerning

D. 1. [REDACTED]

Complaint also charges that in 2002, Redcoast changed the Redcoast MLS search screen to [REDACTED]

[REDACTED]

genuine issue of material fact which precludes summary decision in its favor. Opposition at 5.

With respect to Respondent's request for alternative relief, Complaint Counsel argues it should be denied. Opposition at 16-17.

IV. APPLICABLE STANDARD

Respondent's pleading seeks "dismissal of the complaint for failure to state a claim upon

which relief can be granted." To the extent that it is appropriate to consider this motion as a

Once the moving party has properly supported its motion for summary judgment, the

~~nonmoving party must "do more than simply show there is some metaphysical doubt as to the~~

material facts." *Matsushita*, 475 U.S. at 586. The nonmoving party may not rest on mere allegations or denials of its pleading but must "come forward with 'specific facts showing that

matter of law. Further, because there are material issues of fact in dispute, dismissal under the motion to dismiss standard is also not appropriate. Respondent's motion is therefore **DENIED**.

~~Respondent's alternative motion to be DENIED. Consolidated General Order filed 11/1/11~~