

**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

MULTIPLE LISTING SERVICE, INC.

a corporation.

Docket No. C-

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 Multiple Listing Service, Inc. (“Respondent” or “MLS, Inc.”), a corporation, has violated 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 allegations 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 participants designed to foster real estate brokerage services. MLS, Inc. adopted a rule that limits the publication of certain listing agreements on popular internet real estate websites, in a manner that limits the ability of real estate brokers to use Exclusive Agency Listings to offer unbundled brokerage services at a lower price compared to the full service package. This rule deprives such brokers and the home sellers they represent of a significant benefit afforded by the MLS. The rule discriminates on the basis of lawful contractual terms between the listing real estate broker and the seller of the property, and lacks any justification that such a rule improves competitive efficiency. Consumers are harmed by this

RESPONDENT AND ITS PARTICIPANTS

1. Respondent Multiple Listing Service, Inc., (“MLS, Inc.”) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin. Respondent’s principal place of business is 11430 West North Avenue, Wauwatosa, Wisconsin 53226. MLS, Inc. operates for the benefit of its participants.
2. MLS, Inc. has more than 6500 real estate professionals as participants, and is affiliated with the National Association of Realtors (“NAR”). The majority of MLS, Inc.’s participants hold an active real estate license and are active in the real estate profession.
3. The large majority of residential real estate brokerage professionals in the Southeast Wisconsin Area are participants of MLS, Inc. These professionals compete with one another to provide residential real estate brokerage services to consumers.
4. A Multiple Listing Service (“MLS”) is a clearinghouse through which participating real estate brokerage firms regularly and systematically exchange information on listings of real estate properties and share commissions with other participants who locate purchasers. MLS, Inc. is now and has been providing since 1985 a MLS for the use of its participants doing business in the Southeast Wisconsin Area, and this service is known as the Metro MLS.
5. When a property is listed on the Metro MLS, it is made available to all participants of the MLS for the purpose of trying to match a buyer with a seller. Information about the property, including the asking price, address and property details, is made available to participants of the MLS so that a suitable buyer can be found.
6. Metro MLS services the Southeast Wisconsin Area, which includes the cities of Milwaukee, Racine, Kenosha and Sheboygan, Wisconsin, and the surrounding counties.
7. Metro MLS is the only MLS that services the Southeast Wisconsin Area.

JURISDICTION

8. MLS, Inc. is and has been at all times relevant to this Complaint a corporation organized for its own profit or for the profit of its participants within the meaning of Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.
9. The acts and practices of MLS, Inc., 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.

18. 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

THE WEB SITE POLICY OFFERS NO EFFICIENCY BENEFIT

26. 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

27. In adopting the policies and engaging in the Acts and Practices described herein, MLS, Inc. has acted as a combination of its participants to restrain trade in the provision of residential real estate brokerage services within the Southeast Wisconsin Area.

28. The purposes, capacities, tendencies, or effects of the policies, acts, or practices of MLS, Inc. and its participants as described herein have been unreasonably to restrain competition among brokers, and to injure consumers.

29. 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 _____, 2007, issues its Complaint against Respondent Multiple Listing Service, Inc.

By the Commission.

Donald S. Clark
Secretary