

I. Background

On October 17, 2007, the United States filed the Complaint in this matter alleging that the defendant, the Multiple Listing Service of Hilton Head, Inc. ("HHMLS"), enforced certain rules that restrained competition among real estate brokers in Hilton Head, South Carolina. As explained more fully in the Complaint, CIS, and Response to Public Comments, the HHMLS rules restrained competition, reduced consumer choice and stabilized prices for real estate brokerage in Hilton Head.

At the same time the Complaint was filed, the United States filed a proposed Final Judgment that was designed to eliminate the anticompetitive effects of the HHMLS rules. The proposed Final Judgment is designed to restore competition in the Hilton Head real estate brokerage market by eliminating rules that make it difficult for new brokers to enter the market and by eliminating rules that restrict competition among incumbent brokers.

The United States and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Compliance with the APPA

The APPA requires a sixty-day period for the submission of public comments on the proposed Final Judgment. 15 U.S.C. § 16(b). In compliance with the APPA, the United States filed a CIS in this Court on October 17, 2007; published the proposed Final Judgment, Stipulation, and CIS in the *Federal Register* on November 27, 2007, 72 Fed. Reg. 66188 (2007); and published a summary of the terms of the proposed Final Judgment and CIS, together with directions

for the submission of written comments relating to the proposed Final Judgment, in the *Washington Post* during a period of November 18 through 24, 2007 and in *The Island Packet* during a period of November 24 through December 4, 2007. The 60-day period for public comments ended on February 2, 2008. The United States received one written comment on the Proposed Final Judgment, responded to that comment in a Response filed with this Court on April 9, 2008, and published its Response in the *Federal Register* on May 14, 2008, 73 FR 27847 (2008). The Certificate of Compliance filed simultaneously with this Motion recites that all the requirements of the APPA have now been satisfied. It is therefore appropriate for the Court to make the public interest determination required by 15 U.S.C. § 16(e) and to enter the Final Judgment.

III. Standard of Judicial Review

Before entering the proposed Final Judgment, the Court is to determine whether the Judgment "is in the public interest." 15 U.S.C. § 16(e). In making that determination, the Court shall consider:

A. the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

B. the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e).

In the CIS, filed with the Court on October 17, 2007, the United States has explained the meaning and proper application of the public interest standard under the APPA and now incorporates those statements herein by reference. The public, including affected competitors and

customers, has had the opportunity to comment on the proposed Final Judgment as required by law. The proposed Final Judgment is within the range of settlements consistent with the public interest.

IV. Conclusion

For the reasons set forth in this Motion and Memorandum and in the CIS and the Response to Public Comments, the Court should find that the proposed Final Judgment is in the public interest and should enter the proposed Final Judgment without further hearings. The United States respectfully requests that the proposed Final Judgment be entered as soon as possible.

Dated: May 21, 2008

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2008, I caused a copy of the foregoing Motion and Memorandum in Support of Entry of Final Judgment to be served electronically on counsel for Defendant in this matter.

By: /s/ Lisa Scanlon

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