



Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, MAY 4, 2009
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JUSTICE DEPARTMENT REACHES SETTLEMENT WITH CONSOLIDATED MULTIPLE LISTING SERVICE INC.

Settlement Will Result in More Choices, Better Services, and Lower Commission Rates for South Carolina Consumers

WASHINGTON — The Department of Justice announced today that it has reached a proposed settlement with Consolidated Multiple Listing Service Inc. (CMLS) that requires CMLS to change its rules to allow low-priced and innovative brokers to compete with traditional brokers in the Columbia, S.C., area. The Department said the rules caused consumers to pay more for residential real estate brokerage services in the Columbia area.

The Department's Antitrust Division filed its proposed settlement in U.S. District Court in South Carolina. If approved by the court, the proposed settlement would resolve the Department's antitrust concerns.

"Today's settlement will remove unlawful impediments to competition for real estate brokerage services in the Columbia area and will lead to more choices and lower brokerage fees for South Carolina consumers," said Christine A. Varney, Assistant Attorney General in charge of the Department's Antitrust Division. "For most Americans, purchasing a home is the most significant purchase of their life. This settlement demonstrates the Department of Justice's continuing commitment to preserve competition in the real estate brokerage industry."

A multiple listing service (MLS), like the one operated by CMLS, is a joint venture of real estate brokers that combines its members' home listings information into an electronic database that is made available to all member real estate brokers. This database serves as a clearinghouse for the members to communicate important information among themselves, such as descriptions of the listed properties for sale and offers to compensate other members if they locate purchasers for those listings. In addition, the database allows member brokers who represent buyers to search for nearly all the listed properties in the area that match the buyer's needs.

Because the MLS's database is the primary source of home listings information on virtually every home listed for sale in a given area, access to the database - and therefore MLS membership - is critical for any real estate broker seeking to serve clients successfully in the MLS's service area. Consequently, the rules adopted by the MLS governing who can be a member and how members must behave can have a significant impact on competition among real estate brokers in the area served by the MLS.

In May 2008, the Department's Antitrust Division filed a civil antitrust lawsuit against CMLS in U.S. District Court in South Carolina, challenging policies and rules that restrained competition among brokers in Columbia in several ways. CMLS imposed burdensome prerequisites to membership that prevented some real estate brokers, such as those who would likely compete aggressively on price, from listing homes for sale in the MLS's database, ensuring that those brokers could not compete in the Columbia area. CMLS required applicants for membership to discuss the nature of their businesses with a committee of incumbent members and reserved the power to deny membership to brokers who they feared would compete too aggressively. CMLS also stabilized the price of brokerage services by forcing its broker members to provide a full set of brokerage services regardless of whether a client wanted the required services. The Department said that those rules prevented consumers from receiving the full benefits of competition, discouraged discounting, and threatened to lock in outmoded business models.

The proposed settlement with CMLS requires it to change those rules and prohibits it from adopting new rules that exclude real estate brokers from membership based on their business models or price structures. CMLS must allow any broker holding the appropriate license under South Carolina law to become a member and cannot continue to exclude brokers based on their business models. It will repeal rules that denied Columbia-area home sellers the ability to hire a real estate broker to perform only the specific services the seller desired, at a lower cost than the seller would pay a traditional, full-service broker. CMLS also will repeal its requirement that its member brokers use only the single contract approved by CMLS, which blocked home sellers from alternative arrangements that allowed them to avoid paying any commission to their broker if the sellers found buyers for their homes.

The proposed settlement, along with the Department's competitive impact statement, will be published in the Federal Register, as required by the Antitrust Procedures and Penalties Act. Any person may submit written comments regarding the proposed final judgment within 60 days of its publication to John R. Read, Chief, Litigation III Section, Antitrust Division, U.S. Department of Justice, 450 5th Street, N.W., Suite 4000, Washington, D.C. 20530 (Tel: 202-307-0468). At the conclusion of the 60-day comment period, the court may enter the proposed final judgment upon a finding that it serves the public interest.

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