

Original Transcript

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

United States of America,

Plaintiff,

Case No: 3:08-CV-01786-SB

-vs-

Consolidated Multiple
Listing Services,
Incorporated,

Defendant.

DEPOSITION OF

Robert Baucom

February 12, 2009
9:35 a.m.

Woodward, Cothran & Herndon
440 Knox Abbott Drive, Suite 200
Cayce, South Carolina

REPORTED BY: Missy Graczyk, Court Reporter

RECEIVED

FEB 18 2009

LITIGATION III, ANTITRUST DIV.
U.S. DEPT. OF JUSTICE



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1 to comport with other CMLS rules?

2 A Just to be sure that, yeah that says it, there's a
3 possibility that the State form could actually be in
4 conflict with something that's in our rules, if you
5 actually, I don't know what that would be, because
6 I'm not really, that would be the reason.

7 Q But you haven't had any problems with people using
8 the South Carolina Association of Realtors EA Form?

9 A No, and I only went to, you know, we have -- no.

10 Q CMLS still requires that all offers be submitted to
11 listing brokers, correct?

12 A Yes, that's what the Rule says.

13 Q And there's no modification of that Rule with respect
14 to, with an agency listing?

15 A You mean that you would have to do ERTS and not EA?

16 Q No, I'm saying, there's no exception where the
17 listing agreement is an Exclusive Agency that would
18 allow offers to go directly to the home seller?

19 A No.

20 Q Why is it that even if the seller wants to receive
21 offers directly, CMLS prohibits them from doing so?

22 A I don't think it's a prohibition as such, and you
23 know, I think if you read the State Statute, that's a
24 gray area as to whether or not, how it gets. It says
25 that you have to prepare and present to the seller



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1 any and all offers, you know, and to sit down and
2 just interpret legally, not being a lawyer, you know,
3 what that means versus what our rules mean. I don't
4 have any idea. I mean, does it say that it can't,
5 that South Carolina law doesn't say it has to be, as
6 I recall it, doesn't say that it has to be presented,
7 or can be presented directly to the seller. It says
8 that the listing agent or the agent for the seller
9 has to prepare and present all offers to the seller.

10 Q So you believe that requirement, you believe that
11 South Carolina law requires offers to go to the
12 broker and that they cannot be given directly to a
13 home seller?

14 A I think that was the consensus of everybody on the
15 Board when this issue first came up. I mean,
16 recalling the conversations that we've had about
17 that, that that's what everybody thought.

18 Q Based on its interpretation of South Carolina law?

19 A Yeah.

20 Q But you acknowledge that it's sort of a gray area?

21 A I do.

22 Q Did CMLS recently make changes with respect to its
23 requirement on signage?

24 A I don't think that's been recent. Well yeah, there
25 was a change in signage that I've been pushing for



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138

CERTIFICATE OF REPORTER

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2
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4 I, Missy A. Graczyk, Court Reporter and
Notary Public for the State of South Carolina at
Large, do hereby certify:

5
6 That the foregoing deposition was taken
before me on the date and at the time and location
7 stated on page 1 of this transcript; that the
deponent was duly sworn to testify to the truth,
the whole truth and nothing but the truth; that the
8 testimony of the deponent and all objections made
at the time of the examination were recorded
9 stenographically by me and were thereafter
transcribed; that the foregoing deposition as typed
10 is a true, accurate and complete record of the
testimony of the deponent and of all objections
11 made at the time of the examination to the best of
my ability.

12
13 I further certify that I am neither
related to nor counsel for any party to the cause
pending or interested in the events thereof.

14
15 Witness my hand, I have hereunto
affixed my official seal this 16th day of February,
2009, at Columbia, Lexington County, South
16 Carolina.

17
18
19
20 *Missy A. Graczyk*
Missy A. Graczyk, Court Reporter
21 Notary Public
State of South Carolina
22 My Commission Expires:
January 18, 2010
23
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