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Government suing listing service that allegedly limits competition

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BODY:

The U.S. government is suing the group that oversees real estate listings in the Columbia region to make sure home sellers have access to agencies that charge less than the typical 6 percent commission.

The Columbia-area Consolidated Multiple Listing Service denies the government's claims, saying at least three discount real estate firms already are members and have access to the region's real estate database.

One listing service leader called the reasoning behind the charges "mysterious."

Still, the U.S. Department of Justice wants to make sure the group won't change their rules in the future to limit competition.

The suit says the service's rules are set up to deny membership to "brokers who might be expected to compete more aggressively or in more innovative ways than (service) members would prefer."

The lawsuit is one in a string of antitrust suits filed against similar organizations throughout the country over the past few years, including one in Hilton Head.

Most of them are settled without a trial, according to a U.S. Department of Justice spokeswoman. The Hilton Head listing service agreed last year to open access to low-cost or Internet-based agencies and not adopt new rules that would prevent their membership, the department said.

No one on the Columbia-area listings service board of directors can recall any applicant denied membership, said Bob Baucom, the service's director of operations.

"I don't know how you get anti-competitive out of that," said Baucom, a former FBI agent who described himself as "like the real estate police" in Columbia.



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The service maintains a database of homes for sale in the area and records of sales that help real estate agents set prices. The group is made up of 370 brokers who represent more than 3,100 real estate agents in seven Midlands counties: Richland, Lexington, Kershaw, Saluda, Fairfield, Calhoun and Newberry.

The government's lawsuit accuses the Columbia service of depriving customers access to fee-for-service agencies and exclusive-agency listings.

Exclusive-agency listings allow sellers to pay no commission or fee to a broker if the sellers find a buyer on their own. Baucom said the service agreed to allow those listings last month.

Fee-for-service allows home-sellers to purchase specific services they want from a broker, such as paying a flat fee to have a home listed on the listing service.

Baucom said Assist 2 Sell, which charges a flat fee, has been a member of CMLS for two years. He said two other low-cost agencies that charge 4 percent commission are members.

Baucom said the U.S. Department of Justice started investigating the service in 2006 and investigators spoke with officials and copied documents in Columbia about a year later.

He said the service didn't hear from the department again until March, when he and CMLS attorney Ed Woodward flew to Washington and met with 15 attorneys who gave them a "last chance" to comply.

"We don't have anything to hide," Baucom said.

In addition to allowing exclusive agency listings, the board voted last month to cut its one-time membership fee in half to \$2,500 to attract smaller agencies, Baucom said.

But the service chose not to address other concerns raised by the government attorneys.

The government wanted the service to end criminal background checks, Baucom said. The board declined, citing public safety concerns.

And the government wanted the service to open membership to agents without a local storefront, but that would violate state law, Baucom said.

Nick Kremydas, chief executive of the S.C. Realtors trade group, would not comment about the local case but said he's angry about the government's allegations against the industry.

"They constantly are claiming that our organization is anti-competitive, and it is not," Kremydas said. "Membership has quadrupled in last 10-15 years, and that's not a sign of an anti-competitive industry.

"It upsets me that our federal government is using our tax dollars to do these kinds of things."

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