



October 20, 2005

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Dear Deputy McDonald:

I started the following letter several days after your press release was issued on September 8, 2005. I have been reticent to mail it and part of the hesitation is the negative light in which I have responded to your original press release and subsequent events. I have read and reread every bit of information since that time and realize that my response is written in response to a negative assessment of my profession. It has just come to my attention that NAR is suggesting that members let the DOJ and FTC know what our feelings are about the competitive nature of the profession. In case this letter is interpreted to be useful for that purpose, the REFERENCE IS "Competition and the Real Estate Workshop", Project No. VO50015.

I, therefore, send the letter and make these comments about "competition":  
"Competition? It is fierce. We who have been around for so many years must make it look easy based on the numbers coming into the profession and, perhaps also, actions by you. If you open the newspaper, daily or weekly, block out all the names of all the advertisers in the Real Estate sections, can you pick out the multi-office firms from the single office mom and pop operations? I don't think so. I fall more or less in the latter category and I have a feeding tube that goes directly from my bank account to the billing office of 2, 3, or 4 newspapers. Competition is fierce. Do you, incidentally have an economic recovery plan in place for when you neutralize my profession to the point that newspapers go out of business? Competition. Name another profession where the mom and pop operation can do battle with multi office competitors and have the same opportunity. I can go toe to toe with the biggest of them and come out



a winner because my presentation, the referral that got me the appointment, my research, my personality, the shoulder I offered clicked on that given day in that given situation; each situation is different; no two alike. In truth commission has little to do with the consumer's selection. It is all about service and the need of the consumer. No one has an unfair advantage or edge over any other company or business model. I have every opportunity to go against the biggest, the best, the worst, the newest in my profession or the oldest in my profession and I either win or lose, it is that simple. But, I try like hell to win every time. Competition."

*My original letter follows:*

What have I missed?

In a Department of Justice press release issued Thursday, September 8, 2005 and quoting J. Bruce McDonald, Deputy Assistant Attorney General. You, or the writer of the press release, sum the situation up quite succinctly. Multiple Listing Service is a joint venture among competing brokers. What exactly is meant by ".....and NAR's policy stifles competition to advantage *some* of its members at the expense of home buyers and sellers across the country."?

Who exactly are "some" of its members? All of its members have the same advantage. The NAR is comprised essentially of brokerage firms, large and small who as a body demand, indeed, command a higher standard of excellence. We as a group have demanded stricter licensing laws and continuing education, all to the advantage of the consuming public.

Every effort made by Realtors is intended to work in the best interest of the consumer of the product. MLS is about sharing information in the best interest of the consuming public. If brokers wish to offer discount services or by-the-service options, they can certainly do that. If brokers wish, however, to feed on the hard work of other brokers, then they do not belong in my profession. I take great pride in what I have created and procured and wish always for what is mine to be attributed to me. There is nothing wrong with working for what you wish to obtain. The so-called innovative brokers should spend more time promoting their innovation, than the fruits of other broker's labor. That they use my listings through MLS is not a problem we all gain, but to take what is mine and display it on personal web sites as if it were their own, that is stealing.

Anyone who works the net knows that all of the answers or products are not located in one location or on one web site. This is what free enterprise is all about, is it not?

I have been a real estate professional for 26 years. I have built up a following of good and trusting clients and customers. I strongly support the innovative who have come into my profession; I strongly support use of internet services. This is the wave of the future. However, if these new wave brokers need my listings to build their business base, I do not approve. Any of these new thinking brokers have all the right in the world to join the Realtor organization and call up any listings that they wish to expose to the customers they may procure on the web through the marketing of *their* services and *their* listings. No one, however, has the right to take my listings, the ones that I have worked very hard to acquire, to display as their own. That is not competition. In any other profession this would be called plagiarism. In this case, it is blatant plagiarism.

Opting-out does not limit competition. It makes parties who wish to be in my profession work for what they get, as I have. Opt-out is necessary. Clients who appreciate a good work ethic take issue with their information, information that they have contracted with a specific Broker to use to market their home, being used arbitrarily for other brokers to promote themselves primarily and the property secondarily. A house is a big deal whether you are buying or selling one. Who better to work on behalf of the house than the person who has the contract with the Seller; who better to work with the potential Buyer of the home than someone who has a good working relationship with a Buyer and knows that a particular home might meet their specific needs. This does not exclude anyone, but rather enables the Broker with the Buyer to tap into the information that the listing broker procured through first-hand knowledge of the property.

If a broker is so creative that he gives the consumer a street directory (MLS) and says find an address you like and call me back, what service is he performing? If he got to know the client's needs and acted upon the information received and made the necessary contacts to see if the shoe truly fits then he is acting in the best interest of his client and all parties involved.

The Realtor organization was built on a foundation of full service. If the innovative, contemporary thinking companies feel they can have a successful business by offering less or fewer services, they are free to attract clientele, and service their clientele in any way that they wish through self-promotion, as I do. Isn't that what competition is all about? There would be no comparison between the business models, but the consumer would have choice. Isn't that what the object of non-traditional brokerage is all about? Choice. Isn't that what your objective is? Choice. It exists, and fairly so, in the current structure.

It is not a matter of destroying or breaking down the traditional to create the new. It is not about the subsidization of a business model by the very group that it is claimed does not offer choice. It is about a new concept and working to prove that the concept is good and desirable. If it is a good concept and the consumer appreciates the diversity, it will flourish. But the creators of the concept have to work to accomplish that end. They cannot take what is mine as their own. *It is what I have done to attract consumers that puts me in a position of using MLS, not the other way around.*

I have worked with innovative brokers and they do not hesitate to partake of my full service option and my commission offered. And because I do work in the best interest of my clients, I fully welcome the opportunity to do business. I encourage anyone who wishes to do so to participate in the sale of all of my listed properties even though I may have worked for months or years with the client, even though I have spent the money to market the property; it's the cost of doing business, but the object always is to fulfill the needs of the consumer of my services.

I have proven that my outmoded business model works as have the 1.2 (+-) million traditional NAR members. Don't you think that if the internet was more efficient and cost effective and better *serviced* home sellers and buyers than the traditionalists, as a group, would be using that business model? There are many steps to climb before any property is ready for the traditional market or the internet and it seems at this point the "creative" broker enters the picture after all the grunt work is done.

What is being encouraged by this lawsuit is to support a mentality that plagues this country. Laziness. Getting something for nothing. The Department's Antitrust Division is not preserving competition in this so-called "vital sector of our nation's economy", you are, in fact, creating a socialistic state of affairs. While these new-wave discount brokers put their systems on autopilot and complain that they are not being treated fairly, I can competitively work my butt off to obtain listings so that they may place them on their web site and offer them to the world as their own. What is wrong with this picture?

As professionals, we constantly assess and reassess our profession, thereby improving the profession for the profession, and, more important, for the consuming public. Let the participants who feel disadvantaged opt in and use the MLS services as they were intended. It is essentially a professional database of shared information that benefits the participants. The services we offer in our chosen business models cannot be confused with access to MLS. The Broker's Web Site is his choice of location for doing business as it my brick and mortar building and we are on a level playing field. We each attract the consuming public by the service(s) we offer.

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Realtors do not discourage use of MLS information. Realtors do not discourage cooperation. It is, however, ludicrous to feel it is the right of any company to advertise all of my listings and those of my fellow traditionalist NAR members on their website as if they were their own. What entitles anyone to that subsidy? Let those who are dissatisfied use their ingenuity and their services offered and their customer/client base as a foundation to build their business model as traditionalist members of NAR have for years.

I speak as but 1 of the 1.2 million (+-) traditional broker members of the NAR who are locked into a so-called "outmoded business model". How can so many people be so far behind the times? It seems your battle, and every other person who finds fault with NAR and its members, and the various MLSs, is not about antitrust but rather the issue of traditional thinking versus, so-called, contemporary thinking. Give the new model a name and offer it to the consuming public, without my listings, and build it to the stature that NAR/MLSs has. That's how one proves that the model will work, not by taking my work and calling it its' own. I would never think of taking what belonged to someone else and passing it off as if it were mine. Even when sharing information about other broker's listings, I inform the recipient that I can show these because they are in my office; I will have to arrange to show these because they are not.

I marvel every day that, as a group, Realtors are in continuous personal competition to obtain what is the backbone of the profession, listings, and, yet, we have devised an information-sharing device called Multiple Listing Service as a testament to the true spirit of cooperation and that information sharing device is available to all members as a reference library, if you will.

I now have to marvel at the audacity of anyone feeling that I owe a free ride to anyone who has not worked as my equal. No, I won't give you my listings to advertise as your own. I will, however, give you the opportunity to work with me.

Sincerely,

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