



December 19, 2013

Dear FTC,

The proposed consent decree against MTNA is based upon a false assumption of the purpose of the “do not solicit” recommendation contained within their Code of Ethics. This “do not solicit” is comparable to items found within Realtor’s code of ethics as published by the National Association of Realtor’s at <http://www.realtor.org/mempolweb.nsf/pages/code>:

- **Article 16** REALTORS® shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other REALTORS® have with clients. (Amended 1/04).
- Standard of Practice 16-3
  - Article 16 does not preclude REALTORS® from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage) or from offering the same type of service for property not subject to other brokers’ exclusive agreements. However, information received through a Multiple Listing Service or any other offer of cooperation may not be used to target clients of other REALTORS® to whom such offers to provide services may be made. (Amended 1/04)

When students study with a private studio instructor, solicitation from another teacher is for the same service currently provided to the student, not a different service. If a student studies with a voice teacher, another voice teacher can reasonably be understood to provide the same basic service: teaching the student to sing.

Nowhere within this Code of Ethics does it prevent a student from moving to another teacher or inquiring about how another teacher works. Students are able to move among teachers as they will. Students also gain knowledge of how other teachers work when students participate in MTNA-sponsored performance events (competitions or master classes). This gives students the opportunity to network with and learn about other instructors besides their own and, on their own initiative, request information about other instructors.

The goal of this section of the Code of Ethics is to encourage “truth in advertising” amongst private instruction professionals where the proof of their teaching skill is the enticement to the student, rather than any blatant encouragement on the teacher’s part. The historical record of the late nineteenth-century is clear that “truth in advertising” did not exist. Upon its Founding in 1876, this solicitation of clients by any possible means was seen as completely unethical, and is the purpose behind this “do not solicit” recommendation.

It is also a show of collegiality that members do not solicit from other members. Again, nowhere are students prohibited from changing instructors. Uninvited solicitation by another teacher is most comparable to codes of ethics governing coaches in an athletic situation as stated in the United States Olympic Committee’s 1992 Coaching Code of Ethics (<http://ethics.iit.edu/ecodes/node/3942#2>):

- **2.06 Recruiting**



VELARDE VOICE STUDIO

Rachel Velarde, Mezzo-Soprano  
Velarde Voice, LLC

- Coaches do not engage, directly or through agents, in uninvited in-person solicitation of business from actual or potential athletes or other participants who, because of their particular circumstances, are vulnerable to undue influence. However, this does not preclude recruiting athletes deemed eligible by appropriate governing bodies.

The teacher-student relationship is also comparable to that of a client-therapist relationship, in that a level of trust and personal knowledge is created in a successful teacher-student relationship. The American Music Therapy Association Code of Ethics references the following (labeled as current 11/13 at:

<http://www.musictherapy.org/about/ethics/>)

- 4.2 The MT will not offer professional services to a person receiving music therapy from another music therapist except by agreement with that therapist or after termination of the client's relationship with that therapist.

Holding MTNA to a different standard from similar codes of ethics as outlined by the very different professions cited above is unconscionable and discriminatory towards private studio instructors, very few of whom make ends meet solely via private studio instruction. As stated above, this Code of Ethics, historically, was created to prevent the unethical behavior, uninvited solicitations of clients, and personal misrepresentation that was rampant in the United States during the formative years of creating a code of professional responsibility to the profession of teaching.

Thank you for carefully considering my recommendation that the FTC abandon its proposed consent decree against MTNA as baseless, contrary to the intentions of the “do not solicit” recommendations contained within the organization’s Code of Ethics, and above all, discriminatory towards private studio instructors by disregarding the numerous examples of similar statements throughout various non-related professions.

Sincerely,

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(Doctor of Musical Arts, Master of Music, Master of Music, Singing Voice Specialist)