

Loose Lips Sink Ships... **AND Real Estate Brokerages**

PROTECT YOURSELF FROM ANTITRUST CLAIMS



Have you ever discussed the following with a real estate licensee from another brokerage?

- *"My brokerage won't let him/her show any of our listings."*
- *"My brokerage will only pay that broker x amount on our listings."*
- *"We should all tell MLS not to work with that vendor."*
- *"We never let buyers work with that home inspector. He/she's a deal killer."*
- *"I won't take a listing for less than x amount."*

If so, you may have become a co-conspirator to violate antitrust laws.



ANTITRUST LAWS

Federal and state antitrust laws protect consumers by barring competitors from different independently-owned and -operated brokerages from taking actions, like engaging in group boycotts, price fixing, and other practices that divide the marketplace, that artificially limit competition in the marketplace. The Federal Trade Commission and United State Justice Department determine whether certain actions or policies would lead to higher prices, "inferior" service or fewer choices for consumer or make it more difficult for other businesses to enter the real estate market.

INVESTIGATIONS & CLASS ACTION LAWSUITS

The United States Department of Justice is investigating the National Association of REALTORS® and the real estate industry for potential violations of federal antitrust laws. Class action lawsuits have been filed against NAR, some Multiple Listing Services, and individual brokerages. One case, Sitzer/Burnett, is scheduled for trial starting later in 2023. The plaintiffs' attorneys are contacting anyone who sold a home in 2014 or later through a Missouri MLS and asking them to join in the class action. So far, Rhode Island has not been targeted but we need your help to keep it that way.

PENALTIES

Violating federal antitrust laws can result in criminal and civil penalties and fees, such as a maximum fine of \$350,000 for an individual and \$10 million for a corporation; a maximum of three years in prison for an individual and/or triple damages; and attorney fees and court costs. And these are just the federal penalties.

HOW TO PROTECT YOURSELF AND PROFESSION

- Comply with antitrust laws by making independent decisions about compensation and cooperation with other real estate companies, vendors, advertisers, and other service providers.
- Avoid, stop, or leave conversations that could violate antitrust laws. This includes discussions in association meetings, classes, showings, franchise gatherings, and social events like dinners or parties.
- Explain to clients and customers how you are paid – especially if you plan to represent a buyer or tenant.
- Don't post about compensation policies or boycotts on social media or "like" others' comments.
- Promote the many ways that real estate licensees help consumers by reading and sharing Competition in Real Estate (nar.realtor) with customers, clients, and other REALTORS®.

If you have any concerns about potential antitrust violations, please contact RIAR/MLS General Counsel Monica Staaf at 401-432-6945 or email monica@rirealtors.org.