

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

UNITED STATES OF AMERICA,
Plaintiff,
v.
CONSOLIDATED MULTIPLE
LISTING SERVICE, INC.,
Defendant.

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

STIPULATION

It is stipulated by and between the undersigned parties by their respective attorneys that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of South Carolina, Columbia Division.

2. The parties stipulate that a proposed Final Judgment in the form attached as Exhibit 1 may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent.

3. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the Parties and submitted to this Court.

4. If (1) the proposed Final Judgment is not entered pursuant to this Stipulation and the time has expired for all appeals of any court ruling declining entry of the proposed Final

Judgment, or (2) the United States has withdrawn its consent, then the Parties are released from all further obligations under this Stipulation and the making of this Stipulation shall be without evidentiary prejudice to any party in this or any other proceeding.

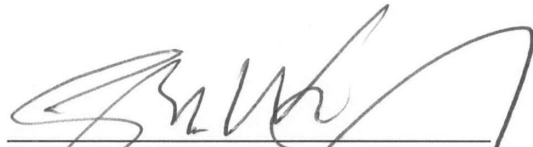
FOR PLAINTIFF  
UNITED STATES OF AMERICA

FOR DEFENDANT  
CONSOLIDATED MULTIPLE LISTING  
SERVICE, INC.



David C. Kully  
U.S. Department of Justice  
Antitrust Division, Litigation III Section  
450 5th Street, NW., Suite 4000  
Washington, DC 20530  
(202) 305-9969

Dated: April 28, 2009



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(803) 799-9772

Dated: April 28, 2009

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

_____	)	
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 3:08-CV-01786-SB
	)	
<b>CONSOLIDATED MULTIPLE</b>	)	
<b>LISTING SERVICE, INC.,</b>	)	
	)	
Defendant.	)	
_____	)	

**[PROPOSED] FINAL JUDGMENT**

WHEREAS, Plaintiff, United States of America, filed its Complaint on May 2, 2008, alleging that Defendant Consolidated Multiple Listing Service, Inc. (“CMLS”) adopted rules and practices that exclude competitors from and restrain competition in the Columbia, South Carolina, real estate brokerage market in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, and Plaintiff and Defendant, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against, or any admission by, any party regarding any issue of fact or law;

WHEREAS, the United States requires CMLS to agree to certain procedures and prohibitions for the purposes of preventing and remedying the loss of competition alleged in the Complaint;

WHEREAS, CMLS agrees to be bound by the provisions of this Final Judgment pending its approval by the Court;

WHEREAS, the purpose of this Final Judgment is the prompt and certain elimination of barriers to new and innovative broker competitors and impediments to competition among brokers in the Columbia area;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED, AND DECREED:

**I. JURISDICTION**

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against CMLS under Section 1 of the Sherman Act, as amended, 15 U.S.C. § 1.

**II. DEFINITIONS**

As used in this Final Judgment:

- A. “Board” means CMLS’s Board of Directors or Board of Trustees.
- B. “Broker-in-Charge” means a broker-in-charge as the term is defined under Title 40, Chapter 57 of the Code of Laws of South Carolina.
- C. “CMLS” means the Defendant, Consolidated Multiple Listing Service, Inc., its predecessors, successors, subsidiaries, affiliates, partnerships, and joint ventures and all directors, trustees, officers, employees, agents and representatives of the foregoing. The terms “subsidiary,” “affiliate,” and “joint venture” refer to any Person in which there is or has been partial (twenty percent or more) or total ownership or control between CMLS and any other Person.

D. “Department of Justice” means the United States Department of Justice, Antitrust Division.

E. “Including” means including, but not limited to.

F. “Licensee” means a Person licensed as a broker or salesman under Title 40, Chapter 57 of the Code of Laws of South Carolina and affiliated with a Member of CMLS.

G. “Member” means an Owner who is entitled to receipt of or access to all products and services that CMLS offers to any member or participant.

H. “Membership” means being a Member of CMLS.

I. “Owner” means a person who is or employs a Broker-in-Charge.

J. “Person” means any natural person, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, office, or other business or legal entity, whether private or governmental.

K. “Rule” means any CMLS rule, bylaw, policy, standard, or guideline.

L. The terms “and” and “or” have both conjunctive and disjunctive meanings.

### **III. APPLICABILITY**

This Final Judgment applies to CMLS and all other persons in active concert or participation with it who receive actual notice of this Final Judgment by personal service or otherwise.

#### **IV. PROHIBITED CONDUCT**

A. Subject to the provisions of Section VI of this Final Judgment, CMLS shall not adopt, maintain, or enforce any Rule, or enter into or enforce any agreement or practice, that directly or indirectly

1. denies Membership in CMLS to any Owner who requests Membership in CMLS;
2. discriminates against or disadvantages any Member or Licensee based on the Member's or Licensee's office location, pricing or commission rates, business model, contractual forms or types used, or services or activities the Member or Licensee performs or does not perform for any home buyer or home seller;
3. conditions CMLS's acceptance of any listing or its provision of any other product or service to any Member or any Licensee on the Member's or Licensee's pricing or commission rate or performance of or agreement to perform any service or activity for any home buyer or home seller; or
4. prohibits, restricts, or impedes any truthful advertising or marketing activities of any home seller or discriminates against or disadvantages any Member or Licensee for any truthful advertising or marketing activity in which any home seller is engaged. For purposes of this provision, it is not untruthful for a home seller who has entered an exclusive agency listing agreement with a Member or Licensee to advertise his or her home in "For Sale by Owner" or "FSBO" publications or on "For Sale by Owner" or "FSBO" websites or to otherwise suggest to the public that the home seller is selling his or her own home.

B. CMLS shall not require any Owner who seeks to become a Member to pay, as a condition of becoming a Member, initiation, application, or other fees that, individually or in the aggregate, exceed the reasonably estimated cost incurred by CMLS in adding a new Member.

C. CMLS shall not inquire into or request information about the actual or anticipated business model, prices or commission rates charged or to be charged, or operations of (i) any Owner who requests Membership in CMLS, (ii) any Member, or (iii) any Licensee, except as

necessary to ensure that the Owner, Member, or Licensee holds (or employs a person who holds) the appropriate license under Title 40, Chapter 57 of the Code of Laws of South Carolina.

D. CMLS shall not re-adopt or enforce any Rules or portions of Rules that it must delete under Sections V.A or V.B of this Final Judgment or reverse or modify any modifications to Rules or portions of Rules that it must modify under Section V.B of this Final Judgment.

## **V. REQUIRED CONDUCT**

A. Subject to the provisions of Section VI of this Final Judgment, CMLS shall delete and cease to enforce any Rule, and discontinue any practice, that CMLS would be prohibited from adopting, maintaining, or enforcing pursuant to Section IV of this Final Judgment.

B. CMLS shall make the following specific changes to its Rules (all references are to the December 2008 version of CMLS's Bylaws and to the January 2009 version of CMLS's rules):

1. CMLS shall modify Article III, Section 1 of its Bylaws as follows:

*Current language:*

“Those eligible for membership in CMLS shall consist of entities and/or individuals holding a license to engage in the real estate business within the Midlands of South Carolina which are primarily in the real estate business within primary areas served by the CMLS shall qualify for membership. The service areas include the counties of Richland, Lexington, Saluda, Kershaw, Calhoun, Newberry and Fairfield.”

*Modified language:*

“Those eligible for membership in CMLS shall consist of Owners who are or who employ Brokers-in-Charge holding licenses allowing them to engage in the real estate business in South Carolina.”

2. CMLS shall delete and cease to enforce the following portion of Article III, Section 6 of its Bylaws:

“This application will include a thorough resume of the new Member’s Broker-in-Charge and owner. The prospective member also agrees that a credit check may be required. The application must be submitted to the CMLS office no later than two weeks prior to the scheduled membership meeting.”

3. CMLS shall delete and cease to enforce the following portion of Article IV of its Bylaws:

“RECOGNIZING THAT PROFESSIONAL REPRESENTATION OF BOTH A BUYER AND A SELLER IS CRITICALLY IMPORTANT IN ANY REAL ESTATE TRANSACTION, NO PROPERTY SHALL BE LISTED WITH THE CMLS UNLESS THE AGREEMENT BETWEEN THE SELLER AND LISTING AGENT EXPRESSLY REQUIRES ACTIVE INVOLVEMENT BY THAT AGENT IN THE SALE AND CLOSING OF THE PROPERTY. FAILURE TO ABIDE BY THIS PRECEPT SHALL CAUSE A PROPERTY TO BE DE-LISTED AND MAY SUBJECT THE LISTING AGENT TO EXPULSION FROM CMLS.”

4. CMLS shall modify Article XI of its Bylaws as follows:

*Current language:*

“Any dispute between Members relating to or arising out of breaches or violations of the rules and regulations of the CMLS, or between Members and buyers and sellers, arising out of the use of the CMLS, shall be submitted for mediation as herein provided in the Exclusive Right to Sell Contract.”

*Modified language:*

“Any dispute between Members relating to or arising out of breaches or violations of the rules and regulations of the CMLS shall be submitted for mediation.”



5. CMLS shall modify a portion of Definition 8 (“Listing Agreement”) as follows:

*Current language:*

“CMLS allows the entry of Exclusive Right to Sell and Exclusive Agency into the CMLS database, as adopted and approved by the Board from time to time.”

*Modified language:*

“CMLS allows the entry of Exclusive Right to Sell and Exclusive Agency listings into the CMLS database.”

6. CMLS shall modify Definition 10 (“FSBO”) as follows:

*Current language:*

“Properties for sale by an Owner with no CMLS Exclusive Right to Sell Form executed by Owner.”

*Modified language:*

“Properties for sale by an Owner with no Listing Agreement executed by Owner.”

7. CMLS shall modify Rule 1(a) as follows:

*Current language:*

“Written Agreement. Each listing submitted by a Member shall be in writing on the Exclusive Right to Sell (ERTS) Form or Exclusive Agency (EA) Form as approved by the Board from time to time. No alteration of any kind to the provisions of the Listing Agreement shall be allowed. No material shall be included in the ‘Special Stipulations’ section of the Listing Agreements which is inconsistent with or which modifies the printed portion of the Listing Agreements or which is inconsistent with the By-Laws or Rules or Regulations of CMLS. No Member or representative thereof shall make any agreement with an Owner, whether verbally or in writing, which varies, in any way, the provisions of the Listing Agreements provided herein. CMLS allows only a single list price for a property.”

*Modified language:*

“Written Agreement. For each listing submitted to CMLS by a Member, the Member shall have a written Listing Agreement with the property owner.”

8. CMLS shall modify Rule 1(b)(1) as follows:

*Current language:*

“All listings shall be prepared on such forms as the Board shall approve from time to time . . . .”

*Modified language:*

“Members shall collect information about listings submitted to CMLS on Listing Input Sheets as the Board shall approve from time to time . . . .”

9. CMLS shall modify Rule 1(b)(2) as follows:

*Current language:*

“All listings must be entered into the computer within 2 business days upon acceptance of the listing by the Member. If not entered by the Member, the listing shall be delivered to CMLS within 2 business days by hand delivery or facsimile transfer and a fee of \$15.00 will be required for entry by CMLS. Completed Listing Forms (to include Listing Input Sheets and Exclusive Right to Sell or Exclusive Agency Contracts) are not required to be submitted to CMLS, but will be retained by member companies in accordance with current State Law. Copies of these documents shall be submitted to CMLS upon request. Additionally, ten (10) percent of new listings entered into the CMLS database will be automatically selected for audit. The Listing Company will be notified at the time the listing is entered into the system and an MLS number assigned. A follow-up email will be transmitted to the Listing Agent, the person entering the listing and the BIC.”

*Modified language:*

“All listings must be entered into the computer within two (2) business days upon acceptance of the listing by the Member. If not entered by the Member, the Listing Input Sheet shall be delivered to CMLS within two (2) business days by hand delivery or facsimile transfer and a fee of \$15 will be required for entry by CMLS. Completed Listing Agreements should be retained by member companies in accordance with current State Law. Copies of Listing Input Sheets (but not Listing Agreements) shall be submitted to CMLS upon request. However, no more than ten (10) percent of new listings entered into the CMLS database will be randomly selected for audit. The Listing Company will be notified at the time the listing is entered into the system and an MLS number assigned. A follow-up email will be transmitted to the Listing Agent, the person entering the listing and the BIC. If selected for audit, the Listing Company shall submit copies of Listing Input Sheets and Listing Agreements to CMLS within two business days. Before submitting any Listing Agreement, the Listing Company may white out, black out, or otherwise conceal all information in the Listing Agreement except the Member’s or Listing Agent’s and owner’s signatures, the co-broke fee to be paid to any Selling Company, the date of execution of the Listing Agreement, the term (length) of the Listing Agreement, and the address of the listed property. Listings submitted for audit may be reviewed by any CMLS employee other than those employees who are also CMLS Members. CMLS will destroy any audited Listing Input Sheets and Listing Agreements within five business days of receiving them or following the resolution of any issues.”

10. CMLS shall modify a portion of Rule 2 as follows:

*Current language:*

“Offers on properties included in the CMLS shall be made in written form to the Selling Company and not directly to the Owner.”

*Modified language:*

“Offers on properties included in the CMLS shall be made in written form to the Listing Company and not directly to the Owner, unless the Listing Company communicates otherwise in the broker or agent remarks field in the listing. The Listing

Company shall, upon request, furnish an executed copy of a form dated and signed by the Owner stating as follows: 'I have entered a listing agreement with [broker] for the sale of my property. I have agreed with my broker that offers from potential buyers (or their brokers or agents) will be submitted to me and not to my broker.'

11. CMLS shall modify a portion of Rule 3 as follows:

*Current language:*

There will be no owner's names or phone numbers on any signage.

*Modified language:*

There will be no owner's names or phone numbers on any signage, unless the Listing Company and Owner have entered an Exclusive Agency Listing as opposed to an Exclusive Right to Sell Listing.

12. CMLS shall modify a portion of Rule 3 as follows:

*Current language:*

"No 'For Sale By Owner' (FSBO) sign may be placed on the property nor may the property be advertised in print media as a FSBO or electronically on FSBO sites."

*Modified language:*

"No 'For Sale By Owner' (FSBO) sign may be placed on the property nor may the property be advertised in print media as a FSBO or electronically on FSBO sites, unless the Listing Company and Owner have entered an Exclusive Agency Listing as opposed to an Exclusive Right to Sell Listing."

13. CMLS shall modify a portion of Rule 5(b) as follows::

*Current language:*

"In order to maintain the highest professional standards and meet the requirements of Article II Item 3, all Members must maintain an office in accordance with State Law. The office shall be maintained within primary areas served by CMLS, which includes the counties of Richland, Lexington, Kershaw, Saluda, Newberry, Calhoun and Fairfield."

*Modified language:*

“In order to maintain the highest professional standards and meet the requirements of Article II Item 3, all Members must maintain an office in accordance with State Law, enforcement of which is the responsibility of the appropriate State officials.”

14. CMLS shall delete and cease to enforce Rule 5(c), which states as follows:

“A representative (Owner/Broker-in-Charge) of the prospective Member must personally appear at the CMLS office for a brief orientation meeting with the Membership Committee. The CMLS Board will vote on acceptance of the prospective new Member at the next scheduled board meeting. This voting process may also be conducted via email. The prospective Member will be notified of the Board’s decision within 2 business days.”

15. CMLS shall modify a portion of Rule 7 as follows:

*Current language:*

“. . . no Member may advertise in any media that they can list a property in the CMLS for a flat fee without disclosing to the consumer that the consumer will be required to sign an Exclusive Right to Sell contract which includes the co-broke fee the consumer is willing to pay.”

*Modified language:*

“. . . no Member may advertise in any media that they can list a property in the CMLS for a flat fee without disclosing to the consumer that the consumer will be required to offer a co-broke fee.”

16. CMLS shall modify a portion of Rule 7 as follows:

*Current language:*

“No property may be advertised in print media as a FSBO or electronically on FSBO sites nor can a FSBO sign be placed on the property.”

*Modified language:*

“No property may be advertised in print media as a FSBO or electronically on FSBO sites nor can a FSBO sign be placed on the property, unless the Listing Company and Owner have entered an Exclusive Agency Listing as opposed to an Exclusive Right to Sell Listing.”

17. CMLS shall modify Rule 17 as follows:

*Current language:*

“Prior to being granted access to the CMLS system for the purpose of information entry an agent/representative or individual Member must attend and complete an introductory class on the use thereof and provide evidence thereof to the CMLS staff.”

*Modified language:*

“Prior to being granted access to the CMLS system for the purpose of information entry, an agent/representative or individual Members must attend and complete an introductory class on the use of the CMLS system and an orientation with a CMLS staff member (who is not a CMLS Member). New Members who previously worked as an agent/representative under another CMLS Member and had training in and access to the CMLS system need not repeat the introductory class and orientation. The agent/representative or individual Member will also be excused from the introductory class if he or she demonstrates familiarity with the MLS software used by CMLS, through membership in another MLS that uses the same software. In such case, the agent/representative or individual Member may receive the orientation by phone. CMLS shall provide introductory classes/orientation no less frequently than once every two weeks, if needed.”

18. CMLS shall modify Rule 20(21) as follows:

*Current language:*

“All keyboxes must be approved by the CMLS. Within the primary service area of CMLS, another type of keybox may be placed on the listing but must be accompanied by a keybox approved by the CMLS (including HUD homes, Corporate Owned homes, Foreclosures, etc). Subleasing of CMLS keyboxes is strictly forbidden and will result in a fine of \$500 for each offense. Listings in violation of this rule will be removed from the CMLS system without notice.”

*Modified language:*

“Listings with keyboxes in the CMLS primary service area (Richland, Lexington, Kershaw, Saluda, Fairfield, Newberry and Calhoun Counties) must have a CMLS approved keybox. Another type of keybox (non-CMLS approved) may be placed on the listing but must be accompanied by a keybox approved by CMLS (including HUD homes, Corporate Owned homes, Foreclosures, etc.). Upon receipt of a signed agreement between the Seller and an agent/representative or individual Member requesting CMLS to supply a keybox directly to the Seller, CMLS will furnish the Seller a keybox. The agreement shall include a statement that the agent/representative or individual Member agrees to pay all normal fees associated with the issuance of a keybox. CMLS shall maintain a list of keyholders available to remove keyboxes as a service to listing brokers at a fee to be negotiated between the keyholder and Member. Subleasing of CMLS keyboxes is strictly forbidden and will result in a fine of \$500 for each offense. Listings in violation of this rule will be removed from the CMLS system without notice.”

19. CMLS shall modify Rule 20(23) as follows:

*Current language:*

“Any agreement between a listor client and a Member that gives the Member an advantage over another Member must be disclosed on the CMLS listing input sheet and appear on the computer printout sheet, i.e., if the listing company or owner sells the property the commission will be modified. The listing member

must disclose the details of such agreement when requested by another Member.”

*Modified language:*

“If a Member enters a Listing Agreement with an Owner under which the commission rate varies for any reason, that fact (but not the commission rate) shall be disclosed on the CMLS Listing Input Sheet and appear on the computer printout sheet.”

20. CMLS shall modify Rule 21 as follows:

*Current language:*

“Each member shall provide evidence to the Board annually that it maintains Errors and Omissions insurance in an amount of \$500,000.00 or greater. Failure to maintain such insurance shall result in loss of membership if not corrected within 90 days after notice.”

*Modified language:*

“If a Member does not have or maintain at least \$500,000 in Errors and Omissions insurance, it shall disclose that fact on each document required to be executed in the course of creating a listing. The Member shall also disclose that fact on the Listing Input Sheet and CMLS will include the following statement on any publication of that listing: ‘The Listing Company for this property does not maintain Errors and Omissions insurance.’”

C. CMLS shall deliver, to any Person who requests it and by whatever reasonable delivery method such Person requests (including e-mail), a complete set of materials necessary to apply for Membership, including a complete set of CMLS’s then-current Rules.

D. CMLS shall permit any Owner to submit an application for Membership by whatever reasonable delivery method he or she desires.



E. Within three business days of completion of orientation and CMLS system training, if needed, CMLS shall grant the Owner Membership in CMLS. If the applicant (Member, if orientation has been completed) has previously been trained in the use of CMLS's systems (by CMLS or another MLS), CMLS shall immediately provide the applicant all passwords and other information and materials necessary for him or her to submit listings to CMLS, to access CMLS's database of listings (including confidential or broker-to-broker information fields), and to use any product or service provided by CMLS. If the new applicant has not previously been trained in the use of CMLS's systems, CMLS shall provide such information and materials after the new applicant has completed training in the use of CMLS's systems. CMLS shall offer training in the use of its systems no less frequently than once every two weeks, if needed.

F. CMLS shall prevent any employee, officer, director, or trustee of CMLS who is himself or herself a Member or Licensee from viewing or accessing listing or other agreements between a Member or Licensee and any home buyer or home seller. Membership applications shall not request any information concerning the business model or operations of or the commissions or other prices to be charged by the applicant.

G. CMLS shall furnish to the Department of Justice

1. a complete set of CMLS's Rules, within five business days of each modification to those Rules; and
2. a complete set of minutes of any meeting of CMLS Members or any regular or special meeting of CMLS's Board or of any committee comprised of members of CMLS's Board, within five business days of the approval of such minutes (if such minutes are formally approved) or of the finalization of such minutes (if such minutes are not formally approved).

- H. Within five business days after entry of this Final Judgment, CMLS shall
1. furnish to each Member and Licensee a hard or electronic copy of this Final Judgment and a hard or electronic copy of CMLS's Rules modified to conform to the provisions of this Final Judgment; and
  2. furnish a copy of this Final Judgment and a copy of CMLS's Rules modified to conform to the provisions of this Final Judgment to each Person who, in the five years preceding entry of this Final Judgment, CMLS knows to have picked up an application for Membership or who otherwise inquired about becoming a Member. CMLS shall also notify each such Person that CMLS will allow any Owner, who is not prohibited from Membership (under Rules permitted under Section VI of this Final Judgment), to become a Member.

#### **VI. PERMITTED CONDUCT**

Subject to Section IX of this Final Judgment and notwithstanding any of the above provisions, nothing in this Final Judgment shall prohibit CMLS from:

A. denying Membership to or terminating the Membership of any Owner who no longer holds, or no longer employs a Broker-in-Charge who holds, a broker's license under Title 40, Chapter 57 of the Code of Laws of South Carolina or who has been convicted of a crime of either a criminal sexual nature or relating to the improper handling of funds;

B. requiring, as a condition of obtaining or maintaining Membership, that CMLS Members certify that each Licensee affiliated with the Member has undergone a nationwide background check and has no convictions of either a criminal sexual nature or relating to the improper handling of funds; and

C. disciplining, including terminating the Membership or access to CMLS of, any Member or Licensee who violates CMLS Rules or fails to pay CMLS's fees or dues, provided (i) that CMLS not discriminate in its investigation or discipline of Members or Licensees for Rules violations or failure to pay fees or dues based on the Members' or Licensees' office locations, pricing or commission rates, business models, contractual forms or types used, or the services or activities they perform or do not perform for any home buyer or home seller and (ii) that it maintain processes consistent with the requirements of § 33-31-621(b)(2) of the Code of Laws of South Carolina.

## **VII. COMPLIANCE AND INSPECTION**

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to CMLS, be permitted:

1. access during CMLS's office hours to inspect and copy, or at the United States's option, to require CMLS to provide hard or electronic copies of, all books, ledgers, accounts, records, data and documents in CMLS's possession, custody, or control, relating to any matters contained in this Final Judgment; and
2. to interview, either informally or on the record, CMLS's Members, directors, trustees, officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by CMLS.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, CMLS shall submit written reports or interrogatory responses, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If, at the time information or documents are furnished by CMLS to the United States, CMLS represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and CMLS marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," then the United States shall give CMLS ten calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

#### **VIII. RETENTION OF JURISDICTION**

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

**IX. NO LIMITATION ON GOVERNMENT RIGHTS**

Nothing in this Final Judgment shall limit the right of the United States to investigate and bring actions to prevent or restrain violations of the antitrust laws concerning any Rule or practice adopted or enforced by CMLS.

**X. EXPIRATION OF FINAL JUDGMENT**

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

**XI. PUBLIC INTEREST DETERMINATION**

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: \_\_\_\_\_

Court approval subject to procedures set forth  
in the Antitrust Procedures and Penalties Act,  
15 U.S.C. § 16

\_\_\_\_\_  
Sol Blatt, Jr.  
United States District Judge