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*Attorneys for Defendant San Francisco
Association of REALTORS®*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

TOP AGENT NETWORK, INC.,

Plaintiff,

v.

NATIONAL ASSOCIATION OF
REALTORS, CALIFORNIA ASSOCIATION
OF REALTORS, INC., and SAN
FRANCISCO ASSOCIATION OF
REALTORS,

Defendants.

Case No. 3:20-CV-03198-VC

**DEFENDANT SAN FRANCISCO
ASSOCIATION OF REALTORS' NOTICE
OF JOINDER IN DEFENDANT
NATIONAL ASSOCIATION OF
REALTORS' OPPOSITION AND
FURTHER OPPOSITION TO PLAINTIFF
TOP AGENT NETWORK, INC.'S
MOTION FOR TEMPORARY
RESTRAINING ORDER AND ORDER TO
SHOW CAUSE AS TO WHY A
PRELIMINARY INJUNCTION SHOULD
NOT ISSUE**

Hearing Date:

Time:

Place:

Judge: Hon. Vince Chhabria

Defendant San Francisco Association of REALTORS® (“SFAR”) joins in the opposition to Plaintiff Top Agent Network, Inc.’s (“TAN’s”) motion for a temporary restraining order and preliminary injunction filed by Defendant National Association of REALTORS® (“NAR”). In further support of NAR’s arguments about TAN’s delay, SFAR provided its members with notice and information specifically about the Clear Cooperation Policy (the “Policy”) on numerous occasions starting in January 31, 2020. Declaration of Walter T. Baczkowski, Jr., ¶¶ 7-8. But while SFAR is following the mandatory Policy, it has no discretion whether to follow the policy, and it has no power to change the Policy. *Id.* ¶¶ 4-6. If the Court were to issue an injunction here against SFAR, it would be faced with a Hobson’s choice: (1) withdraw from NAR to comply with the Court’s order; or (2) violate the Court’s order to stay in compliance with NAR’s mandatory Policy. Therefore, while SFAR should not be in this case, its communications provided TAN and its members with notice of the forthcoming Policy.

DATED: May 19, 2020

Respectfully submitted,

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By /s/ Ethan Glass

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Case No. 3:20-CV-03198-VC

**DECLARATION OF WALTER T.
BACZKOWSKI, JR. IN SUPPORT OF
DEFENDANT SAN FRANCISCO
ASSOCIATION OF REALTORS' NOTICE
OF JOINDER IN DEFENDANT
NATIONAL ASSOCIATION OF
REALTORS' OPPOSITION AND
FURTHER OPPOSITION TO PLAINTIFF
TOP AGENT NETWORK, INC.'S
MOTION FOR TEMPORARY
RESTRAINING ORDER AND ORDER TO
SHOW CAUSE AS TO WHY A
PRELIMINARY INJUNCTION SHOULD
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Hearing Date:

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Judge: Hon. Vince Chhabria

DECLARATION OF WALTER T. BACZKOWSKI, JR.

I, Walter T. Baczkowski, Jr., declare as follows under 28 U.S.C. § 1746:

1. I am the Chief Executive Officer of the San Francisco Association of REALTORS® (“SFAR”). I have personal knowledge of the facts contained herein, and if called as a witness, I could and would testify competently thereto.

2. SFAR is a local association of REALTORS® affiliated with the National Association of REALTORS® (“NAR”).

3. SFAR provides services to real estate brokers and agents in the San Francisco area, including publications, education programs, and legislative advocacy. It also operates the SFAR Multiple Listing Service, a database used to share information about properties located in the San Francisco area.

4. SFAR is a member of NAR, and SFAR’s multiple listing service is affiliated with NAR. SFAR therefore follows the rules and policies that NAR requires affiliated multiple listing services to follow.

5. SFAR is following NAR’s Clear Cooperation Policy (“Policy”) because it is a mandatory policy.

6. SFAR, however, has no discretion to decide whether or not to follow mandatory NAR policies, and it has no power to change NAR’s Policy.

7. On January 31, 2020, SFAR provided its first notice to its members about the Policy. Attached as **Exhibit A** to this declaration is a true and correct copy of the January 31, 2020 email that was sent to SFAR members to provide notice of the Policy.

8. SFAR subsequently provided information to its members regarding the Policy in Facebook and Instagram posts, videos, and on its webpage.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. This declaration was executed on May 19, 2020 in Foster City, California.

DocuSigned by:
Walter Baczkowski
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Walter T. Baczkowski, Jr.

Exhibit A



SAN FRANCISCO
ASSOCIATION of REALTORS®

Clear Cooperation Policy

#PutItOnTheMLS

Dear Members:

The National Association of REALTORS® (NAR) Board of Directors considered the practice of "pocket listings" and "coming soon listings" at the 2019 REALTORS® Conference & Expo here in San Francisco.

The consensus: The real estate market is optimized for sellers, buyers, and brokers when all aspects of the REALTOR® Code of Ethics are followed and when market data, including all listings, are presented in a complete, accurate, and timely manner on the MLS system.

When brokers decide to hold listings from the MLS and only publicize properties to their own networks or office, they jeopardize the foundation of the real estate market. (See a helpful video with NAR's General Counsel Katie Johnson [here](#) for further detail.)

To ensure a fair, efficient, and effective real estate market moving forward, **NAR's Board of Directors adopted an MLS Statement 8.0 Clear Cooperation Policy** at November's REALTORS® Conference & Expo.

You can read the complete text of the [National Association of REALTORS® MLS Statement 8.0 Clear Cooperation Policy](#), along with

The San Francisco Association of REALTORS® incorporated a Clear Cooperation Policy into our MLS Rules as of January 1, 2020.

Within one business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants.

Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public-facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public.

Mandatory compliance begins on May 1, 2020.

There are exceptions as well as fines for noncompliance.

For more details, see [SFAR's Clear Cooperation FAQ](#).

I plan to visit real estate offices across the City in the next few months to speak in-person about the Clear Cooperation Policy. In the meantime, please reach out to sfar@sfirealtors.com with questions.

Thank you,

Marc Dickow
2020 Board President
#PutItOnTheMLS



President Marc Dickow on SFAR's Clear Cooperation Policy



SAN FRANCISCO
ASSOCIATION *of* REALTORS®