

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	Civil Action No. 05 C 5140
)	
v.)	Judge Filip
)	
NATIONAL ASSOCIATION OF)	Magistrate Judge Denlow
REALTORS)	
)	
Defendant.)	
)	

DECLARATION OF DAVID C. KULLY

I, David C. Kully, declare as follows:

1. I am a Trial Attorney with the Antitrust Division (“the Division”) of the United States Department of Justice. I submit this declaration in support of the United States’ Motion for Entry of a Protective Order. I have personal knowledge of the matters set forth herein, and if called upon to do so, I could and would competently so testify as to those matters.

2. I was involved in the Division’s investigation that culminated with the filing of the Complaint in this action. As authorized by the Antitrust Civil Process Act (“ACPA”), during its investigation, the Division used compulsory process to obtain business records of market participants, including business plans, financial reports, and other potentially competitively sensitive documents. The ACPA limits the Division’s freedom to disclose this material until litigation begins. My review of the materials obtained by the Division indicates that, in many instances, producing parties have requested confidential treatment of the materials and/or have stamped the documents they produced with a “confidential” designation.

3. I have also had conversations during the pendency of this litigation in which representatives of producing parties have expressed concern about the competitive harm they would suffer if the confidential information they provided to the Division were disclosed to members of NAR's "Leadership Team," or otherwise freely disseminated within NAR. According to the representative of one producing party, it has competed and will compete with Realtor.com, NAR's "official website," for contracts with web portals such as Yahoo or AOL, and the disclosure to NAR employees of the details of its negotiation and relationship with such entities would impede its ability to renegotiate or renew existing deals or to compete for new relationships.

4. Attached hereto as exhibit A is a true and correct copy of a chart available on NAR's website entitled "National Association of Realtors, 2006 Leadership & Senior Management Team," which purports to identify the current members of NAR's Leadership Team. According to Exhibit A, at least seven of the members of NAR's Leadership Team are affiliated with real estate brokerage companies.

5. The current president of NAR, who is on the Leadership Team, is Thomas M. Stephens of NRT, Inc. According to NRT's website (<http://www.nrtinc.com/pages/about.html>), NRT is the "largest residential real estate brokerage company in the nation," with more than 1,000 offices in over 35 of the nation's largest markets. NRT's website (<http://www.nrtinc.com/execs/stevens.html>) also states that Mr. Stephens is Senior Vice President in charge of business development for the company.

