

Federal Jury: Trade Association and Real Estate Brokerages Conspired to Inflate Commissions, \$1.8B in Damages to Plaintiffs

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On October 31, a federal jury in the U.S. District Court for the Western District of Missouri [found](#) the defendants, a trade association, which represents residential and commercial real estate industries, and multiple residential brokerages liable for \$1.8 billion in damages for conspiring to artificially inflate commissions on home sales.

The plaintiffs in the case – sellers of more than 260,000 homes in Missouri – argued that the commission-sharing structure is effectively a conspiracy that keeps home prices artificially inflated by, among other things: (i) requiring home sellers to make blanket unilateral offers of compensation to real estate brokers working with buyers; (ii) restraining negotiation of those offers; and (iii) denying buyers information on the commissions being offered. Plaintiffs claimed that the defendants' actions were anticompetitive and caused them to pay artificially inflated broker commissions when they sold their homes.

According to the verdict, the jury found the following:

- Plaintiffs proved by a preponderance of the evidence that a conspiracy existed to follow and enforce the Cooperative Compensation Rule (mandates listing brokers to offer compensation to buyer brokers to list on a realtor-affiliated MLS);
- The conspiracy had the purpose or effect of raising, inflating, or stabilizing broker commission rates paid by home sellers; and
- The conspiracy plaintiffs to pay more for real estate brokerage services when selling their homes than they would have paid absent that conspiracy.

Putting It Into Practice: This jury verdict follows a broader federal trend led by The White House to [crack down](#) on excessive fees consumers pay for services, which has been echoed by the CFPB and FTC in more recent months (see our recent post on this [here](#)). More specifically, it aligns with the Justice Department's [recent scrutiny](#) of the real estate industry's brokerage commission structure. While the jury's verdict could impact the real estate industry specifically, companies charging any fees or commissions borne by consumers should understand the regulations that allow or proscribe those activities, as well as staying informed of any changes in regulations or enforcement priorities of state and federal agencies.

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National Law Review, Volumess XIII, Number 307

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