

## Complaint

## IN THE MATTER OF

**NATIONAL ASSOCIATION OF TEACHERS OF  
SINGING, INC.**CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF  
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket No. C-4491; File No. 131 0127*  
*Complaint, October 1, 2014 – Decision, October 1, 2014*

This consent order addresses National Association of Teachers of Singing, Inc.'s ("NATS") adopting and maintaining a provision in its Code of Ethics that restrains solicitation of teaching work. The complaint alleges that NATS violated Section 5 of the Federal Trade Commission Act by restraining competition among singing teachers through adoption and enforcement of the non-solicitation provision of its Code of Ethics. The consent order requires NATS to cease and desist from restraining or declaring unethical the solicitation of teaching work.

*Participants*

For the *Commission*: Armando Irizarry and Karen A. Mills.

For the *Respondent*: James A. Nolan, III, GrayRobinson.

**COMPLAINT**

The Federal Trade Commission ("Commission"), pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.*, and by virtue of the authority vested in it by said Act, having reason to believe that the National Association of Teachers of Singing, Inc. ("Respondent" or "NATS"), a corporation, has violated and is violating the provisions of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this Complaint, stating its charges as follows:

**I. RESPONDENT**

1. Respondent National Association of Teachers of Singing, Inc. is a non-profit corporation organized, existing, and doing

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business under, and by virtue of, the laws of the State of Florida, with its office and principal place of business located at 9957 Moorings Drive, Suite 401, Jacksonville FL 32257.

2. Respondent is a professional association of teachers of singing with over 7,300 members. Many of Respondent's members provide singing teaching services for a fee. Some are employed at schools, universities and music studios as teachers of singing. Except to the extent that competition has been restrained as alleged herein, many of Respondent's members have been and are now in competition among themselves and with other teachers of singing.

3. Respondent has state and local chapters organized in 14 regions. Members of the NATS chapters also are members of Respondent. The NATS Bylaws permit chapters to establish their own Bylaws and operating procedures consistent with the NATS Bylaws, and with the review and consent of the NATS Board of Directors.

## II. JURISDICTION

4. Respondent conducts business for the pecuniary benefit of its members and is therefore a "corporation," as defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

5. The acts and practices of Respondent, including the acts and practices alleged herein, are in or affecting "commerce" as defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

## III. NATURE OF THE CASE

6. Respondent maintains a Code of Ethics applicable to the commercial activities of its members, requires its members to agree to abide by the Code of Ethics, and encourages its members to follow its Code of Ethics. Some NATS chapters have the same Code of Ethics that the NATS has. Some NATS chapters have adopted different codes of ethics.

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7. Respondent has acted as a combination of its members, and in agreement with at least some of those members, to restrain competition by restricting through its Code of Ethics the ability of its members to solicit the customers of competing teachers of singing. Specifically, the NATS Code of Ethics contains a provision in its Code of Ethics section titled “Ethical Standards Relating to Colleagues” that states:

“Members will not, either by inducements, innuendos, or other acts, proselytize students of other teachers.”

8. In furtherance of the combination alleged in Paragraph 7, Respondent established a process for receiving complaints about and resolving alleged violations of the Code of Ethics. Respondent encourages its members to resolve disputes arising out of the Code of Ethics, and mediates disputes. Respondent’s Bylaws reserve to the Board of Directors the right to terminate membership for violations of the Code of Ethics.

#### IV. VIOLATION CHARGED

9. The purpose, effects, tendency, or capacity of the combination, agreement, acts and practices alleged in Paragraphs 7 and 8 has been and is to restrain competition unreasonably and to injure consumers by discouraging and restricting competition among teachers of singing, and by depriving consumers and others of the benefits of free and open competition among teachers of singing.

10. The combination, agreement, acts and practices alleged in Paragraphs 7 and 8 constitute unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45. Such combination, agreement, acts and practices, or the effects thereof, are continuing and will continue or recur in the absence of the relief requested herein.

**WHEREFORE, THE PREMISES CONSIDERED**, the Federal Trade Commission on this first day of October, 2014, issues its Complaint against Respondent.

By the Commission.

## Decision and Order

**DECISION AND ORDER**

The Federal Trade Commission, (“Commission”), having initiated an investigation of certain acts and practices of National Association of Teachers of Singing, Inc. (“Respondent” or “NATS”) and Respondent having been furnished thereafter with a copy of a draft of complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondent with violations of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondent has violated the said Act, and that a complaint should issue stating its charges in that respect, and having accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order (“Order”):

1. Respondent National Association of Teachers of Singing, Inc., is a non-profit corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Florida, with its office and principal place of business located at 9957 Moorings Drive, Suite 401, Jacksonville, Florida 32257.

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2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, and the proceeding is in the public interest.

**ORDER****I.**

**IT IS HEREBY ORDERED** that, as used in this Order, the following definitions shall apply:

- A. “Respondent” or “NATS” means National Association of Teachers of Singing, Inc., its directors, boards, officers, employees, agents, representatives, councils, committees, foundations, divisions, successors, and assigns.
- B. “Antitrust Compliance Officer” means a person appointed under Paragraph IV.A. of this Order.
- C. “Antitrust Counsel” means a lawyer admitted to practice law in Federal court or in the highest court of any State or Territory of the United States.
- D. “Antitrust Laws” means the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.*, the Sherman Act, 15 U.S.C. § 1 *et seq.*, and the Clayton Act, 15 U.S.C. § 12 *et. seq.*
- E. “Certification” means the document attached to this Order as Appendix A.
- F. “Chapter” means any state or local association of teachers of singing that is recognized by NATS as a chapter.
- G. “Code of Ethics” means a statement setting forth the principles, values, standards, or rules of behavior that guide the conduct of an organization and its members.

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- H. "FTC Settlement Statement" means the statement attached to this Order as Appendix B.
- I. "Leaders" means NATS's board of directors, executive director, officers, and regional governors.
- J. "Member" means a member of NATS, including any full, emeritus, associate, and affiliate member.
- K. "Notification Date" means the date on which Respondent makes the notification required by Paragraph III.A.3. of this Order.
- L. "Organization Documents" means any documents relating to the governance, management, or direction of the relevant organization, including, but not limited to, bylaws, rules, regulations, Codes of Ethics, policy statements, interpretations, commentaries, or guidelines.
- M. "Prohibited Practice" means Regulating, restricting, restraining, impeding, declaring unethical or unprofessional, interfering with or advising against any of the activities described in Paragraph II.B.1., II.B.2., and II.B.3.
- N. "Regulating" means (1) adopting, maintaining, recommending, or encouraging that Members follow any rule, regulation, interpretation, ethical ruling, policy, commentary, or guideline; (2) taking or threatening to take formal or informal disciplinary action; or (3) conducting formal or informal investigations or inquiries.

**II.**

**IT IS FURTHER ORDERED** that Respondent, directly or indirectly, or through any corporate or other device, in or in connection with Respondent's activities as a professional association in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, do forthwith cease and desist from:

## Decision and Order

- A. Regulating, restricting, restraining, impeding, declaring unethical or unprofessional, interfering with or advising against solicitation of teaching work, through any legal means, by any Member, or advising or encouraging any organization with which Members are affiliated to do the same; and
- B. Accepting a Chapter, or maintaining a relationship with any Chapter, that NATS learns, or obtains information that would lead a reasonable person to conclude, engages in conduct Regulating, restricting, restraining, impeding, declaring unethical or unprofessional, interfering with or advising against:
  - 1. Solicitation of teaching work, through any means, by any Member;
  - 2. Advertising or publishing the prices, terms or conditions of sale of teaching services, or information about teaching services that are offered for sale or made available by Members; and
  - 3. Price-related competition by its Members, including, but not limited to, restricting the provision of free or discounted services, restricting terms of payment, or restricting Members from offering their services unless they conform to rules established by NATS;

*Provided, however,* that nothing in this Paragraph II. shall prohibit Respondent from adopting and enforcing, or accepting as a Chapter or maintaining an affiliate relationship with any Chapter that adopts and enforces, reasonable principles, rules, guidelines, or policies governing the (i) conduct of its Members with respect to representations that Respondent reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act or (ii) conduct of judges during singing competitions sponsored or held by Respondent or any Chapter.

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**III.****IT IS FURTHER ORDERED** that:

- A. No later than thirty (30) days from the date this Order is issued, Respondent shall:
1. Post and maintain for five (5) years on the Code of Ethics page of NATS's website, together with a link from Respondent's home or menu page that is entitled "Antitrust Compliance," the following items:
    - a. An announcement that states "NATS agreed to change its Code of Ethics and will not adopt, encourage its members to follow, or enforce any Code of Ethics provision relating to solicitation of teaching work that does not comply with the FTC Consent Order,"
    - b. The FTC Settlement Statement; and
    - c. A link to the Federal Trade Commission's website that contains the press release issued by the Commission in this matter; and
  2. Distribute electronically or by other means a copy of the FTC Settlement Statement to its Leaders, employees, Members, and Chapters; and
  3. Notify each Chapter that, as a condition of continued affiliation with NATS, such Chapter must execute and return a Certification to Respondent no later than one hundred twenty (120) days from the date Respondent notifies such Chapter.
- B. No later than sixty (60) days from the date this Order is issued Respondent shall:

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1. Remove from NATS's Organization Documents and NATS's website any statement that is inconsistent with Paragraph II. of this Order, and
  2. Publish on NATS's website any revisions of NATS's Organization Documents.
- C. Respondent shall publish, in the font that is customarily used for feature articles:
1. Any revisions of NATS's Organization Documents, the press release issued by the Commission in this matter, and the FTC Settlement Statement in the next available editions of the "Journal of Singing" and "Inter Nos" publications; and
  2. The FTC Settlement Statement, on or as close as possible to the first and second anniversary dates of the first publication of the FTC Settlement Statement, in the "Journal of Singing" and "Inter Nos" publications, or any successor publications.
- D. For a period of five (5) years after this Order is issued, distribute electronically or by other means, a copy of the FTC Settlement Statement to each:
1. New Chapter no later than thirty (30) days after the date the organization becomes a Chapter;
  2. New Member no later than thirty (30) days after the date of commencement of the membership; and
  3. Member who receives a membership renewal notice, at the time the Member receives such notice.
- E. Respondent shall:
1. Immediately terminate any Chapter that fails to provide an executed Certification no later than one hundred twenty (120) days from the Notification

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Date and shall not permit the terminated Chapter to claim itself as a Chapter of the National Association of Teachers of Singing until such time as the Chapter provides an executed Certification; and

2. Terminate for a period of one (1) year, no later than one hundred twenty (120) days after Respondent learns or obtains information that would lead a reasonable person to conclude that the Chapter has, following the date this Order is issued, engaged in a Prohibited Practice; unless, prior to the expiration of the one hundred twenty (120) day period, said Chapter informs Respondent in a verified written statement of an officer that the Chapter has eliminated and will not reengage in such Prohibited Practice, and Respondent has no reasonable grounds to believe otherwise.
- F. Respondent shall maintain and make available to Commission staff for inspection and copying upon reasonable notice records adequate to describe in detail any:
1. Action against any Member or Chapter taken in connection with the activities covered by Paragraph II. of this Order, including but not limited to enforcement, advisory opinions, advice or interpretations rendered; and
  2. Complaint received from any person relating to Respondent's compliance with this Order.

**IV.**

**IT IS FURTHER ORDERED** that Respondent shall design, maintain, and operate an antitrust compliance program to assure compliance with this Order and the Antitrust Laws:

- A. No later than thirty (30) days from the date this Order is issued, Respondent shall appoint and retain an Antitrust Compliance Officer for the duration of this

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Order to supervise Respondent's antitrust compliance program.

- B. For a period of three (3) years from the date this Order is issued, the Antitrust Compliance Officer shall be the Executive Director of Respondent, after which a new Antitrust Compliance Officer may be appointed who shall be Antitrust Counsel, a member of the Board of Directors, or employee of Respondent.
- C. For a period of five (5) years from the date this Order is issued, Respondent shall provide in-person annual training to its Leaders and employees concerning Respondent's obligations under this Order and an overview of the Antitrust Laws as they apply to Respondent's activities, behavior, and conduct.
- D. No later than sixty (60) days after the date this Order is issued, Respondent shall implement policies and procedures to:
  - 1. Enable persons (including, but not limited to, its Leaders, employees, Members, and agents) to ask questions about, and report violations of, this Order and the Antitrust Laws, confidentially and without fear of retaliation of any kind; and
  - 2. Discipline Leaders, employees, and agents for failure to comply fully with this Order.
- E. For a period of five (5) years from the date this Order is issued, Respondent shall:
  - 1. Conduct a presentation at (i) each National Conference of NATS and (ii) at least one meeting of the Board of Directors every twelve (12) months, that summarizes Respondent's obligations under this Order and provides context-appropriate guidance on compliance with the Antitrust Laws; and

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2. Provide an antitrust compliance guide to Chapters to use at each annual meeting of such Chapters that summarizes Respondent's obligations under this Order and provides context-appropriate guidance on compliance with the Antitrust Laws.

**V.**

**IT IS FURTHER ORDERED** that Respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this Order:

- A. No later than (i) ninety (90) days after the date this Order is issued, (ii) one hundred eighty (180) days after the date this Order is issued; and
- B. No later than one (1) year after the date this Order is issued and annually thereafter for four (4) years on the anniversary of the date on which this Order is issued, and at such other times as the Commission staff may request.

**VI.**

**IT IS FURTHER ORDERED** that Respondent shall notify the Commission at least thirty (30) days prior to any proposed:

- A. Dissolution of Respondent;
- B. Acquisition, merger, or consolidation of Respondent; or
- C. Any other change in Respondent, including, but not limited to, assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of this Order.

**VII.**

**IT IS FURTHER ORDERED** that, for the purpose of determining or securing compliance with this Order, and subject

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to any legally recognized privilege, and upon written request and upon five (5) days' notice to Respondent, Respondent shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of the Respondent and in the presence of counsel, to all facilities, and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and all other records and documents in the possession, or under the control, of the Respondent related to compliance with this Order, which copying services shall be provided by the Respondent at its expense; and
- B. To interview officers, directors, or employees of the Respondent, who may have counsel present, regarding such matters.

**VIII.**

**IT IS FURTHER ORDERED** that this Order shall terminate on October 1, 2034.

By the Commission.

Decision and Order

**APPENDIX A**

**CERTIFICATION**

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Name of Chapter

As a condition of being affiliated with the National Association of Teachers of Singing, Inc. ("NATS"), the chapter named above (the "Chapter") makes the following representations to NATS:

1. NO RESTRICTIONS ON STUDENT OR JOB SOLICITATIONS: As of the date this Certification is executed, the Chapter does not maintain in its Organization Documents or website any type of rule, interpretation, ethical ruling, guideline or recommendation which would restrict, restrain, impede, declare unethical or unprofessional, declare as unfair competition, or interfere with or advise against a member of the Chapter from soliciting teaching work. Examples of the type of provisions that restrict such solicitation include any of the following:

- Restricting a member from proselytizing pupils of another teacher by inducement, innuendo, insinuations, or other acts.
- Restricting a member from accepting as a student anyone who has not satisfied financial obligations to another member.

2. NO RESTRICTIONS ON ADVERTISING PRICES OR TERMS OF TEACHING SERVICES: As of the date this Certification is executed, the Chapter does not maintain in its Organization Documents or website any type of rule, interpretation, ethical ruling, guideline or recommendation which would restrict, restrain, impede, declare unethical or unprofessional, or interfere with or advise against a member of the Chapter from advertising prices or other terms of teaching

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services. Examples of the type of provisions that restrict advertising include any of the following:

- Restricting a member from advertising free scholarships or free tuition.

3. NO RESTRICTIONS ON COMPETING ON PRICE-RELATED TERMS: As of the date this Certification is executed, the Chapter does not maintain in its Organization Documents or website any type of rule, interpretation, ethical ruling, guideline or recommendation which would restrict, restrain, impede, declare unethical or unprofessional, or interfere with or advise against a member of the Chapter from competing on price-related terms. Examples of the type of provisions that restrict competing on price-related terms include any of the following:

- Restricting a member from offering free scholarships or free tuition.

On behalf of the Chapter named above, the undersigned officer certifies that all of the foregoing representations are accurate as of the date listed below:

Officer's Signature \_\_\_\_\_

Officer's Name \_\_\_\_\_

Officer's Title \_\_\_\_\_

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

## Decision and Order

**APPENDIX B**

(Letterhead of NATS)

Dear Member:

As you may know, the Federal Trade Commission conducted an investigation concerning the provision in NATS's Code of Ethics that stated:

Members will not, either by inducements, innuendoes, or other acts, proselytize students of other teachers.

The Federal Trade Commission alleges that this provision in the Code of Ethics violates the Federal Trade Commission Act because it unnecessarily restricts members of NATS from competing for students, thereby depriving students of the benefits of competition among teachers of singing.

To end the investigation expeditiously and to avoid disruption to its core functions, NATS voluntarily agreed, without admitting any violation of the law, to the entry of a Consent Agreement and a Decision and Order by the Federal Trade Commission. As a result, NATS is in the process of revising its Code of Ethics and will implement an antitrust compliance program.

In general, the Federal Trade Commission has prohibited NATS from maintaining bylaws, code of ethics, operational policies, or membership requirements that restrict members from soliciting students or other teaching work, including restricting members from offering services directly to students who may be receiving similar services from other teachers of singing.

Some chapters that are affiliated with NATS have codes of ethics or similar documents that contain provisions that restrict its members from: (a) soliciting students or other teaching work, (b) advertising prices or other terms of teaching services, or (c) competing on price-related terms. The Federal Trade Commission has prohibited NATS from accepting or maintaining as a chapter any association that has such a code of ethics or similar document that contains these prohibited restrictions.

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In order to maintain its affiliation with NATS, each chapter must review its constitution and bylaws, code of ethics, operational policies, and membership requirements to determine if they contain any of these prohibited restrictions on members. Examples of these prohibited restrictions would include:

- Restricting a member from proselytizing pupils of another teacher by inducement, innuendo, insinuations, or other acts.
- Restricting a member from accepting as a student anyone who has not satisfied financial obligations to another member.
- Restricting a member from advertising or offering free scholarships or free tuition.

Chapters that are affiliated with NATS and that have any of these prohibited restrictions in their constitution and bylaws, codes of ethics, operational policies, membership requirements, or elsewhere will have the opportunity to remove them. If a chapter does not certify to NATS that it does not have such restrictions prior to the deadline set forth in the Decision and Order, NATS will have to remove it as a chapter until such time as the chapter complies with the Decision and Order.

The Decision and Order does not prohibit NATS or its affiliates from adopting and enforcing Codes of Ethics or similar documents that govern the conduct of members with respect to representations that NATS reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act.

A copy of the Decision and Order is enclosed. It is also available on the Federal Trade Commission website at [www.FTC.gov](http://www.FTC.gov), and through the NATS web site.

## Analysis to Aid Public Comment

**ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT**

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an Agreement Containing Consent Order (“Consent Agreement”) from the National Association of Teachers of Singing, Inc. (hereinafter “NATS”). The Commission’s complaint (“Complaint”) alleges that NATS, acting as a combination of its members and in agreement with at least some of its members, restrained competition among its members and others in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, by adopting and maintaining a provision in its Code of Ethics that restrains solicitation of teaching work.

Under the terms of the proposed Consent Agreement, NATS is required to cease and desist from restricting solicitation among its members, and is required to disaffiliate any Chapter that adopts or maintains provisions in its code of ethics or similar documents that restrain solicitation, advertising, or price-related competition.

The Commission anticipates that the competitive issues described in the Complaint will be resolved by accepting the proposed order, subject to final approval, contained in the Consent Agreement. The proposed Consent Agreement has been placed on the public record for 30 days for receipt of comments from interested members of the public. Comments received during this period will become part of the public record. After 30 days, the Commission will review the Consent Agreement again and the comments received, and will decide whether it should withdraw from the Consent Agreement or make final the accompanying Decision and Order (“the Proposed Order”).

The purpose of this Analysis to Aid Public Comment is to invite and facilitate public comment. It is not intended to constitute an official interpretation of the proposed Consent Agreement and the accompanying Proposed Order or in any way to modify their terms.

The Consent Agreement is for settlement purposes only and does not constitute an admission by MTNA that the law has been

## Analysis to Aid Public Comment

violated as alleged in the Complaint or that the facts alleged in the Complaint, other than jurisdictional facts, are true.

**I. The Complaint**

The Complaint makes the following allegations.

**A. The Respondent**

NATS is a non-profit professional association of more than 7,300 singing teachers. Many of MTNA's members provide music-teaching services for a fee. Some also are employed at schools, universities and music studios as music teachers. NATS membership provides pecuniary benefits to its members.

NATS has affiliated state and local chapters, which are grouped into 14 regions. Members of Chapters also are members of NATS.

NATS maintains a Code of Ethics applicable to the commercial activities of its members, and requires its members to read and pledge adherence to all the provisions of the Code of Ethics. The NATS Bylaws require that Chapters shall abide by Association Bylaws, policies and guidelines, and will establish their own Bylaws and operating procedures consistent with the NATS Bylaws and with review and consent of the NATS Board of Directors.

The NATS Code of Ethics has three sections. One of those sections is titled "Ethical Standards Relating to Colleagues." That Section of the Code of Ethics includes a provision that states, "Members will not, either by inducements, innuendos, or other accts, proselytize students of other teachers."

Some NATS Chapters have the same Code of Ethics that NATS has. Some Chapters have codes of ethics that contain other restrictions on solicitation, restrictions on price competition, restrictions on advertising free tuition, or restrictions on accepting pupils who have not fulfilled a financial obligation to another member until those obligations are satisfied.

## Analysis to Aid Public Comment

**B. The Anticompetitive Conduct**

The Complaint alleges that NATS violated Section 5 of the Federal Trade Commission Act by restraining competition among singing teachers through adoption and enforcement of the non-solicitation provision of its Code of Ethics. This is in effect an agreement among competitors not to compete. NATS requires members to agree to abide by the non-solicitation provision. NATS adopted a complaint and enforcement procedure for the Code of Ethics that can result in termination of membership. When NATS members have complained that other members violated the non-solicitation provision of the Code of Ethics, NATS has investigated complaints, and even where no formal action is taken, the NATS Ethics Committee, Executive Director, President, and Regions sometimes contact a teacher to secure compliance with the non-solicitation provision of the Code of Ethics, or mediate between parties in order to resolve complaints.

The Complaint alleges that the purpose, effect, tendency, or capacity of the combination, agreement, acts and practices of NATS has been and is to restrain competition unreasonably and to injure consumers by discouraging and restricting competition among music teachers.

**II. The Proposed Order**

The Proposed Order has the following substantive provisions.

Paragraph I contains definitions for terms used in the Order.

Paragraph II requires NATS to cease and desist from restraining or declaring unethical the solicitation of teaching work. It also requires NATS to cease and desist from maintaining a relationship with any NATS Chapter that NATS learns or learns that, or obtains information that would lead a reasonable person to conclude that, engages in conduct that restrains solicitation, advertising, or price-related competition by its members.

The Proposed Order does not prohibit NATS from adopting and enforcing reasonable principles (i) to prevent false or deceptive representations, or (ii) to govern the conduct of judges during singing competitions sponsored or held by NATS or its

## Analysis to Aid Public Comment

Chapters, or maintaining a relationship with a Chapter that adopts and enforces such principles. The Proposed Order does not prohibit restrictions on judges' solicitation during competitions because NATS could have a plausible efficiency rationale: ensuring fair competitions. The Proposed Order's exemption is limited to restrictions on judges' behavior during competitions; prohibitions on judges' pre- or post-competition solicitation would violate the Proposed Order.

Paragraph III requires NATS to remove from its organization documents and website any statement inconsistent with the Proposed Order, including the Code of Ethics restriction on solicitation. NATS also must publicize to its members, new members, Chapters, new Chapters, leaders, employees, and the public the changes NATS must make to the Code of Ethics, and a statement describing the Consent Agreement.

Paragraph III also requires NATS to notify each of its Chapters that, as a condition of remaining a NATS Chapter, each Chapter must execute and return a Certification to NATS that the Chapter does not have restrictions on solicitation, advertising, or price-related competition. NATS must terminate any Chapter that does not provide an executed Certification within one hundred and twenty days of when NATS gave notice to the Chapter. Thereafter, if NATS learns that a Chapter has engaged in restraining or declaring unethical the solicitation, advertising, or price-related competition, the Proposed Order requires NATS to terminate the Chapter for one year unless the Chapter informs NATS that the Chapter has eliminated and will not reengage in such practices.

Paragraph IV requires NATS to design, maintain, and operate an antitrust compliance program. NATS must appoint an Antitrust Compliance Officer for the duration of the Proposed Order. For a period of five years, NATS must provide guidance to its staff, employees, members, leaders, and Chapters concerning the antitrust laws and NATS' obligations under the Proposed Order. NATS also must implement policies and procedures to enable persons to ask questions about, and report violations of, the Proposed Order and the antitrust laws confidentially and without fear of retaliation, and to discipline its

Analysis to Aid Public Comment

leaders, employees and agents for failure to comply with the Proposed Order.

Paragraphs V-VII of the Proposed Order requires certain standard compliance reporting, cooperation, and access.

The Proposed Order will expire in 20 years

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## Complaint

## IN THE MATTER OF

**NATIONAL ASSOCIATION OF RESIDENTIAL  
PROPERTY MANAGERS, INC.**CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF  
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket No. C-4490; File No. 141 0031*  
*Complaint, October 1, 2014 – Decision, October 1, 2014*

This consent order addresses National Association of Residential Property Managers, Inc.'s ("NARPM") adopting and maintaining provisions in its Code of Ethics that restrain competition among its members and others. The complaint alleges that NARPM has violated Section 5 of the Federal Trade Commission Act by adopting and maintaining provisions in its Code of Ethics that restrain its members from (1) soliciting the customers of competing property managers, and (2) making statements that are not false or deceptive about competing property managers. The consent order requires NARPM to cease and desist from restraining its members from soliciting property management work, or from making statements about competitors' products, services, or business or commercial practices that are not false or deceptive.

*Participants*

For the *Commission*: Armando Irizarry.

For the *Respondent*: Adam M. Carroll and John F. Faber, Jr.,  
Wolcott Rivers Gates.

**COMPLAINT**

The Federal Trade Commission ("Commission"), pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.*, and by virtue of the authority vested in it by said Act, having reason to believe that the National Association of Residential Property Managers, Inc., ("Respondent" or "NARPM"), a corporation, has violated and is violating the provisions of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this Complaint, stating its charges as follows: