March 24, 2004

Federal Trade Commission
Office of the Secretary
Room 159-H (Annex D)
600 Pennsylvania Ave, N.W.
Washington, D.C. 20580

Re: "CAN-SPAM Act Rulemaking, Project No. R411008," 69 *Federal Register* 48, 11775-11782 (March 11, 2004)

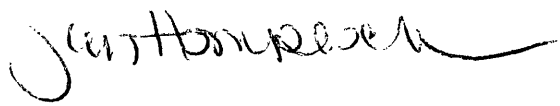
Dear Sir or Madam:

As a member of the New Jersey Association of REALTORS® (NJAR) and the NATIONAL ASSOCIATION OF REALTORS® (NAR), I appreciate this opportunity to comment on the Federal Trade Commission's proposal on the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN SPAM Act). As an independent businessperson who is forced to deal with a flood of offensive and fraudulent e-mails in my box each day and as one who sends e-mails in the course of my real estate business, I have a significant interest in the outcome of this rulemaking process.

While I support the Commission's efforts to control fraudulent, misleading and abusive unsolicited e-mails and e-mailing practices, I am concerned that the establishment of a Do-Not-E-mail Registry goes too far and will result in penalizing small businesses for engaging in legitimate e-mail communications with past clients and potential future clients. Real estate brokers and agents commonly use e-mails to share information about issues and changes in local real estate markets that affect their clients largest asset, their home.

Last year, small businesses were subjected to several new federal regulations (Do-Not Call, Do-Not–Fax regulations and CAN SPAM provisions), which have greatly impacted the ordinary course of business between real estate professionals and our customers. I believe that a Do-Not-E-mail Registry would have a significant economic impact on small businesses by imposing additional compliance costs, not to mention the potential for loss of revenues as a result of further restrictions on business-to-consumer communications.

I am also concerned about the privacy and security of a Do-Not-E-mail Registry. I urge you to closely consider whether the disputable consumer benefits of a Do-Not-E-mail Registry and the potential risk to privacy of a central depository of legitimate e-mail addresses outweigh the onerous and costly compliance burdens on millions of small businesses. I am concerned that this registry would be a prime target for attacks by illegitimate spammers and unscrupulous computer hackers

I urge you to consider the impact of this registry on small businesses.

Sincerely,