

PROFESSIONAL STANDARDS

Doing it Right

Student Manual

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History of the Code of Ethics

Pre-1900

- There was no licensing of real estate practitioners.
- Speculation, exploitation, and disorder was the rule.
- *Caveat emptor* (buyer beware) governed transactions.

1908

- NATIONAL ASSOCIATION OF REALTORS® formed

1913

- Code of Ethics adopted
 - Established professional standards of conduct.
 - The first business ethical code, after those of medicine, engineering, and law.
 - Standards to protect the buying and selling public.

1989 - the Present

- Since 1989 the Code has changed almost each year
 - Are you familiar with the most recent changes?
 - How the Code is enforced?
 - How to use the Code to your benefit?

The Code is:

- Our commitment to professionalism.
- Recognized as the measure of high standards in real estate.
- The "Golden Thread" that binds the REALTOR® family together.
- A living document that evolves with the real estate business.

3. Business Ethics and the Code

- What are "business ethics?"
 - Industry codes and standards
 - Company policies and practices
 - Individual values
- Legal standards generally set minimum standards of conduct required by law, while ethical standards encompass principles higher than legal standards.
- Business ethics and the REALTORS® Code of Ethics

Note: REALTORS® engage in many specialty areas and may be subject to the various codes and canons of those fields (such as legal ethics, the Uniform Standards of Professional Appraisal Practice [USPAP], the National Auctioneers Association [NAA] Code of Ethics, and the codes of the NATIONAL ASSOCIATION OF REALTORS®' Institutes, Societies, and Councils, etc.).

Regardless of their real estate specialties or fields of practice, all REALTORS® are bound by the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®.

Structure and Major Categories of the Code

1. Aspirational Concepts of the Preamble to the Code

- Under all is the land . . .
- The Golden Rule
- “Widely allocated ownership” and “widest distribution of land ownership”
- Maintain and improve the standards of our calling.
- Share our common responsibility for the integrity and honor of the real estate profession.
- Become and remain informed about issues affecting real estate.
- Share your experience and expertise with others.
- Identify and eliminate practices that damage the public or might discredit or bring dishonor to the real estate profession.
- Urge exclusive representation of clients.
- Refrain from taking unfair advantage of your competitors.
- Don't make unsolicited comments about other practitioners.
- If your opinion is sought about a competitor (or if you believe a comment is necessary), offer it in an objective, professional manner.
- Remember, the term “REALTOR®” stands for competency, fairness, high integrity, moral conduct in business relations.
- Keep in mind that no inducement of profit or instruction from clients can justify departure from the Code's duties.

Important Note: The Preamble may **not** be the basis for disciplining a REALTOR®.

2. Sections of the Code

- Three major sections
 - Duties to Clients and Customers
 - Duties to the Public
 - Duties to REALTORS®

- The Code's 17 Articles are broad statements of ethical principles

Important Note: Only violations of the Articles can result in disciplinary action.

- The Standards of Practice support, interpret, and amplify the Articles under which they are stated
 - REALTORS® may not be found in violation of a Standard of Practice, only its foundational Article.

 - Standards of Practice may be cited in support of an alleged violation of an Article (such as a violation of Article 1, as interpreted by Standard of Practice 1-3).

- “Interpretations to the Code of Ethics” (or Case Interpretations) found on nar.realtor include specific applications of the Articles and/or Standards of Practice.

Part 3: Code of Ethics: Arbitration Process

1. Background

- Ethics complaints deal with the perceived unethical “action” or “conduct” of a REALTOR®.

- Arbitration requests deal with contractual disputes or specific non-contractual disputes identified in Standard of Practice 17-4 of the Code of Ethics, involving money arising out of a real estate transaction.

- Mediation is the National Association's preferred dispute resolution system for otherwise arbitrable disputes.

- As of 2000, all REALTOR® associations must offer mediation as an optional service to its REALTORS®.

- In mediation, the disputing parties work with a neutral third-party, a mediation officer, to identify and discuss the issues relative to the dispute and to craft an enforceable resolution voluntarily entered into between the parties.

- Many difficulties between real estate professionals (whether REALTORS® or not) result from misunderstandings, miscommunication, or lack of adequate communication.

- Prior to pursuing an ethics complaint, arbitration request or mediation request, REALTORS® are encouraged to work with each other to resolve their differences.

2. Background

Arbitration is defined by -- and the arbitration of disputes is limited to -- circumstances that fall within the parameters of Article 17.

- They must be “contractual disputes or specific non-contractual disputes as defined in Standard of Practice 17-4 between REALTORS® (principals) associated with different firms, **arising out of their relationship as REALTORS®.**”
 - For example, the desire to collect damages for an automobile accident is not an arbitrable matter under the Code just because two REALTORS® were involved in the accident. Such a claim is not one “arising out of their relationship as REALTORS®” as provided in Article 17.
- Arbitration requests must be filed within one hundred eighty (180) days after:
 - the closing, if any
 - or
 - the realization that a dispute existed, whichever is later.

Arbitration can be mandatory or voluntary. Participants in arbitration are:

Mandatory	Voluntary
REALTOR® principals associated with different firms	REALTORS® within the same firm
REALTOR® principals associated with different firms when requested by their REALTOR® licensees	REALTORS® and real estate professionals that do not hold REALTOR® membership
Clients and the REALTOR® principals who represent them as agents. In this situation, the client must agree to arbitrate the dispute through the association of REALTORS®.	REALTORS® and customers (no agency relationship)

3. Grievance Committee

Role of the Grievance Committee

A Grievance Committee makes a preliminary review of ethics complaints and arbitration requests to determine if a full due process hearing is warranted.

The Grievance Committee handles:

- **Ethics** complaints to determine if the complaint supports a violation of the Article(s) cited.

- **Arbitration** requests to determine if the request relates to a monetary dispute arising out of a real estate transaction that is properly subject to arbitration.

An appeal to the local association's Board of Directors can be made:

- If the Grievance Committee dismisses an ethics complaint or arbitration request
- Over the classification of the dispute as "voluntary" or "mandatory"

Once the Grievance Committee forwards an ethics complaint or arbitration request for hearing, the parties will have the opportunity to present their case to a hearing panel for a determination on the merits, unless the hearing panel chair or one of the parties believes there was a mistake in forwarding the matter to a hearing in the first place, in which case the hearing panel can consider that objection in what is called a "pre-hearing meeting."

4. Professional Standards Hearings

What is a Professional Standards Hearing?

Professional Standards hearings for ethics and arbitration are full "due process" hearings, including sworn testimony, and if desired by a party, representation by counsel.

Hearings are to be fair, unbiased, and impartial, to determine, based on the evidence and testimony presented, whether a violation of the Code occurred or an award should be rendered.

Who hears complaints?

Hearing panelists:

- are unpaid volunteers giving their time as an act of association service.
- can be disqualified from serving if it is determined that they are incapable of rendering an impartial decision.

At the hearing

1. Each party may make an opening statement to present their case.
2. Witnesses may be called to provide testimony.
3. Witnesses can be cross-examined by the other party.
4. Supporting documents/information may be presented.
5. Parties may make closing arguments.

The decisions of hearing panels

- Decisions are based on the evidence and testimony presented during the hearing.
- Hearing panels cannot conclude that an Article of the Code has been violated unless that Article(s) is specifically cited in the complaint.

5. Professional Standards Hearings: Ethics Hearing Results

Who can serve as counsel in an ethics hearing?

In Ethics Hearings, "counsel" can include legal representation and representation by another REALTOR® knowledgeable in the Code.

The Burden of Proof

Respondents in Ethics Hearings are considered innocent unless proven to have violated the Code of Ethics.

The burden of proof in an ethics complaint is "clear, strong and convincing," defined as the "measure or degree of proof which will produce a firm belief or conviction as to the allegations sought to be established."

Ethics Hearing Panel Decisions

The hearing panel's decision includes:

1. Findings of fact
2. Conclusion
3. Recommended discipline (if any).

Findings of Fact

The findings of fact are the story behind the hearing panel's conclusion. The findings of fact are a written account of what took place based on the panel's assessment of all of the evidence and testimony presented. Findings of fact are not appealable and must support the hearing panel's conclusion.

Discipline

Discipline should correspond to the offense and the severity of the REALTORS®' actions.

- Unintentional or inadvertent violations should result in penalties designed to educate
- Intentional violations or repeated violations should result in more severe sanctions

Authorized forms of discipline include:

- Letters of warning or reprimand
- Fines up to \$15,000
- Attendance at educational courses/seminars
- Suspension or termination of membership
- Suspension or termination of services including MLS.

6. Professional Standards Hearings: Arbitration Hearing Results

The Standard of Proof

The standard of proof in which an arbitration hearing decision is based shall be a "preponderance of the evidence," defined as, "evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it, that is, evidence which as a whole shows that the facts sought to be proved are more probable than not." *There are no findings of fact in arbitration.*

Arbitration Awards

The panel will award an amount to the prevailing party. The amount cannot be more than what was requested in the arbitration request, though it can be less.

Making an Appeal

The fact that a hearing panel found no violation of the Code of Ethics is not appealable.

If a party believes that the hearing process was seriously flawed to the extent of denying a full and fair hearing, there are procedures for both ethics and arbitration to appeal that decision on what is called a "procedural deficiency."

Grounds for Appeal

In addition to procedural deficiencies, appeals brought by ethics respondents can also be based on:

- A perceived misapplication or misinterpretation of one or more Articles of the Code of Ethics
- The nature or gravity of the discipline proposed by the hearing panel

The appeal panel's decision is final.

7. Mediation

What is Mediation?

Mediation a powerful tool to help disputing REALTORS®, and sometimes REALTORS® and their clients, resolve disputes that might otherwise be arbitrated.

- Mediation must be offered by an association of REALTORS® as an alternative to arbitration. If the mediation is unsuccessful, the parties are free to arbitrate.
- Mediation is typically a voluntary process, though REALTOR associations can mandate mediation of otherwise arbitrable disputes pursuant to Article 17.
- Mediation can resolve disputes, promote amicable resolutions, and reduce the number of cases requiring the more formal and complex arbitration procedures of the association of REALTORS®.

Mediation Officer

The mediation officer is a neutral third party. If any party objects to the mediation officer (i.e., potential conflict of interest) another mediation officer can be assigned.

8. Benefits of Mediation

- Mediation process is private
- The parties have complete control over the outcome
- The mediator officer is an experienced facilitator familiar with real estate practice and custom
- Low cost
- Improves relationships (parties respond to each other and explain/explore information, needs, ideas and feelings)
- Maximum range of solutions beyond money.

Difference Between Mediation and Arbitration

Mediation	Arbitration
Low cost	Moderate cost
Little delay	Moderate delay
Maximum range of solutions	Win/lose/split
Parties control the outcome	Arbitrators control the outcome
Uncertain closure	Definite closure
Maintains/improves relationships	May harm relationships

Ombudsman Services

1. Introduction

What is an Ombudsman?

An ombudsman is an individual appointed to receive and resolve disputes through constructive communication and advocating for consensus and understanding.

What is the purpose of an Ombudsman?

Ombudsman procedures are intended to provide enhanced communications and initial problem-solving capacity at the local level.

Many “complaints” received by boards and associations do not expressly allege violations of specific Articles of the Code of Ethics, and many do not detail conduct related to the Code. Some “complaints” are actually transactional, technical, or procedural questions readily responded to.

Who must provide Ombudsman services?

All associations must provide ombudsman services to their members and members' clients and customers, according to Professional Standards Policy Statement #59: Associations to Provide Ombudsmen Services, *Code of Ethics and Arbitration Manual*.

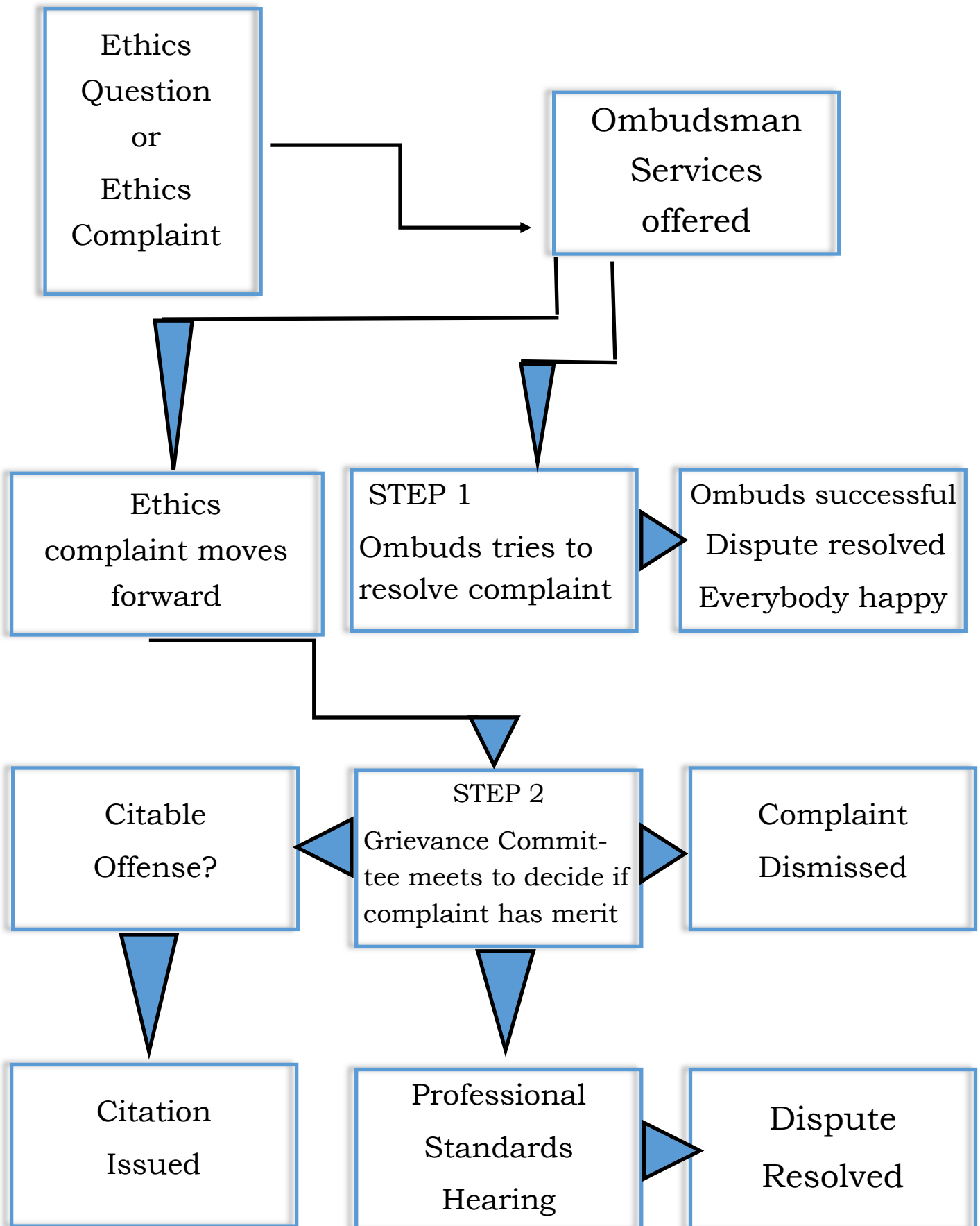
6. Referrals to the Grievance Committee or to State Regulatory Bodies

Ombudsmen cannot refer concerns they have regarding the conduct of any party utilizing their services to the Grievance Committee, to the state real estate licensing authority, or to any other regulatory body. The prohibition is intended to ensure impartiality and avoid the possible appearance of bias. Ombudsmen are, however, authorized to refer concerns that the public trust may have been violated to the Grievance Committee.

Answer questions 1 – 10 by stating where you would find the paraphrase. Which Article, Standard of Practice or if it's found in the Preamble to the Code of Ethics

Article, SOP or Preamble	Paraphrase
1 _____	Affirm an offer has been submitted upon request from Buyer Broker
2 _____	Urge exclusive representation of all clients.
3 _____	Disclose personal interest when buying or selling a property.
4 _____	Don't intentionally make false or misleading statements about another Broker.
5 _____	Don't provide services outside of your field of competence.
6 _____	Don't use hate speech.
7 _____	REALTOR websites shall contain the firm name and state of licensure.
8 _____	Be honest with all parties and protect & promote the best interests of clients.
9 _____	Don't interfere with another Brokers Exclusive Agency Relationship.
10 _____	Disclose variable commission to other Brokers.

Ethics Enforcement



Summary of Administrative Time Frames—Ethics Proceedings

Situation

Time Table

Grievance Complaint filed

180 days . . .

Response required/# of days to submit

15 days from request for response being transmitted if response solicited

Complainant's appeal to Directors

20 days from transmittal of dismissal notice

Directors review

Next meeting

Professional Standards

Respondent provides response

15 days from request for response being transmitted; staff transmits response to the complainant within 5 days from receipt

Challenge forms

10 days to challenge from date forms transmitted to parties

Panel named

5 days after challenge forms are due

Hearing notice

21 days in advance of hearing

Complaint/response to panel

Board option

Notice of witnesses and counsel

15 days before hearing to Board /other party

Adjourned hearing

Not less than 15 days or more than 30 days from hearing (unless a "late" witness is allowed and then not less than 5 days from hearing)

Decision filed

Day of hearing, or no later than 48 hours after hearing

Transmit decision

5 days after decision filed with staff, except if it is necessary to obtain counsel's review

Appeal

Appeal filed

20 days after decision transmitted

Preliminary review

Within 10 days after appeal transmitted to association

Amendment received

Within 10 days of notice

Appeal heard

Next/special meeting giving 10 days minimum notice, but not later than 30 days after receipt of appeal; Directors' written decision transmitted to parties within 5 days of appeal hearing.

(Revised 11/17)

Section 19. Grievance Committee's Review of an Ethics Complaint

A. Initial action upon receipt of an ethics complaint

Upon receipt of an ethics complaint from the Professional Standards Administrator, the Chairperson of the Grievance Committee shall review the complaint. Any evidence and documentation attached will be considered only to the extent necessary to determine whether a complaint will be referred for hearing. The Chairperson may assign one or more members of the Grievance Committee to review the complaint and to make any necessary evaluation. The member(s) may, if necessary, gather additional information on the matters complained of from the complainant if additional information is necessary to determine whether a complaint will be referred for hearing. The complaint shall be provided to the assigned members by the Professional Standards Administrator upon instruction from the Chairperson. *(Amended 11/15)*

The reviewer(s), if appointed, shall complete the assignment promptly and prepare a report and recommendation for the Grievance Committee. After reviewing the report, the Chairperson shall schedule a meeting of the Grievance Committee and may instruct the Professional Standards Administrator to provide members of the Grievance Committee with copies of the case file including the reviewer's report, if any. At the option of the Board, such file may be sent to the Grievance Committee members prior to the meeting or may be distributed at the meeting. *(Amended 4/94)*

B. Consideration of an ethics complaint by the Grievance Committee

In reviewing an ethics complaint, the Grievance Committee shall consider the following:

- (1) Yes___ No___ Is the ethics complaint acceptable in form as received by the Committee? If not in proper form, the Chairperson may request that the Professional Standards Administrator contact the complainant to advise that the complaint must be submitted in proper form. *(Revised 11/15)*

NOTE: *If deemed appropriate by the Chairperson, a member of the Grievance Committee may be assigned to contact the complainant and to provide procedural assistance to amend the complaint or resubmit a new complaint in proper form and with proper content. The Grievance Committee member providing such assistance shall ensure that only procedural assistance is provided to the complainant, and that the complainant understands that the member is not representing the complainant or advocating on behalf of the complainant.*
(Revised 11/15)

- (2) Yes___ No___ Are all necessary parties named in the complaint?
- (3) Yes___ No___ Was the complaint filed within one hundred eighty (180) days of the time that the alleged offense and facts relating to it could have been known by the complainant in the exercise of reasonable diligence or within one hundred eighty (180) days after the conclusion of the transaction or event, whichever is later? *(Revised 5/11)*
- (4) Yes___ No___ Is the respondent named in the complaint a member of the Board, and was the respondent a member of any Board at the time of the alleged offense?

- (5) Yes____ No____ Is criminal or civil litigation or any government agency investigation or other action pending related to the same facts and circumstances giving rise to the complaint alleging unethical conduct?
- (a) If criminal or civil litigation is pending related to the same facts and circumstances giving rise to the complaint alleging unethical conduct, the Grievance Committee shall instruct the Professional Standards Administrator to have Board legal counsel review the complaint filed and advise if any hearing should proceed (presuming the matter would otherwise warrant a hearing), with counsel considering the following:
- (1) similarity of factors giving rise to pending litigation or regulatory or administrative proceeding and the ethics complaint
 - (2) degree to which resolution of the pending litigation or regulatory or administrative proceeding could make consideration of the ethics complaint unnecessary
 - (3) degree to which pending litigation or regulatory or administrative proceeding would delay prompt disposition of the ethics complaint
 - (4) the nature of the alleged violation and the extent to which it could impact on cooperation with other Board Members
 - (5) the assurance of Board legal counsel that consideration of an ethics complaint would not deprive the respondent of due process
(Revised 11/18)
- (6) Yes____ No____ Is there any reason to conclude that the Board would be unable to provide an impartial Hearing Panel?
- (7) Yes____ No____ Are the specific Articles cited in the complaint appropriate in light of the facts provided? Should additional Articles be cited? Should certain Standards of Practice be cited in support of the Articles charged? Are any inappropriate Articles cited?
- (8) Yes____ No____ If the facts alleged in the complaint were taken as true on their face, is it possible that a violation of the Code of Ethics occurred? Complainants are not required to prove their case when initially filing an ethics complaint. A complaint may not be dismissed for lack of evidence if the allegation(s), taken as true on their face, could constitute a violation of the Code of Ethics and the complaint is in an otherwise acceptable form. *(Revised 11/15)*

If all relevant questions have been answered to the satisfaction of the Grievance Committee, and the allegations, if taken as true, could constitute a violation of the Code of Ethics, the Grievance Committee shall refer the complaint to the Professional Standards Committee for a hearing by an ethics Hearing Panel. *(Revised 11/15)*

GRIEVANCE COMMITTEE ACTION ON AN ETHICS COMPLAINT

Case Number:

Complainant:

Respondent:

The Decision is:

Yes___ No___ The Complaint referenced above is hereby referred to a Hearing Panel of the Professional Standards Committee for a hearing as a matter of an alleged violation of Article of the National Association Code of Ethics. A hearing date will be scheduled with a minimum of 21 day notice.

The Complaint ___ was ___ was not amended by the Committee.

If Amended:

Deleted Articles:

Reason:

Added Articles:

Reason:

Additional documentation, if any, needed for the hearing:

___ The Complaint referenced above should NOT be referred to a Hearing Panel because:

Check blank if appropriate:

___ The Complaint, even if the allegations are true, does not support a violation of the Code of Ethics.

___ The Complaint was filed more than 180 days after the facts constituting the matter could have been known in the exercise of reasonable diligence.

Chairman: _____ Date: _____

Section 42. Grievance Committee's Review and Analysis of a Request for Arbitration

A. Initial action upon receipt of a request for arbitration

The reviewer(s), if appointed, shall complete the assignment promptly and prepare a report and recommendation for the Grievance Committee. After reviewing the report, the Chairperson shall schedule a meeting of the Grievance Committee and may instruct the Professional Standards Administrator to provide members of the Grievance Committee with copies of the case file including the review's report, if any. At the option of the Board, such file may be sent to the Grievance Committee members prior to the meeting or may be distributed at the meeting. *(Amended 4/94)*

B. Consideration by the Grievance Committee of a request for arbitration

In reviewing a request for arbitration, the Grievance Committee shall consider the following:

- (1) Yes___ No___ Is the request for arbitration acceptable in the form as received by the committee? If not in proper form, the Chairperson may request that the Professional Standards Administrator contact the complainant to advise that the request must be submitted in proper form. *(Revised 11/15)*

NOTE: *if deemed appropriate by the Chairperson, a member of the Grievance Committee may be assigned to contact the complainant and to provide procedural assistance to amend the request or resubmit a new request in proper form and with proper content. The Grievance Committee member providing such assistance shall ensure that only procedural assistance is provided to the complainant, and that the complainant understands that the member is not representing the complainant or advocating on behalf of the complainant. (Revised 11/15)*

- (2) Yes___ No___ Are all necessary parties named in the request for arbitration? The duty to arbitrate is an obligation of REALTOR® principals. REALTOR® principals include sole proprietors, partners in a partnership, officers or majority shareholders of a corporation, or office managers (including branch office managers) acting on behalf of principals of a real estate firm.

- (3) Yes___ No___ Was the request for arbitration filed within one hundred eighty (180) days after the closing of the transaction, if any, or within one hundred eighty (180) days after the facts constituting the arbitrable matter could have been known in the exercise of reasonable diligence, whichever is later?

- (4) Yes___ No___ Are the parties members in good standing or otherwise entitled to invoke arbitration through the Board's facilities? Were the parties members at the time the facts giving rise to the dispute occurred?

- (5) Yes___ No___ Is litigation concerning an otherwise arbitrable matter pending in connection with the same transaction?

NOTE: *No arbitration shall be provided on a matter pending litigation unless the litigation is withdrawn with notice to the Board and request for arbitration, or unless the court refers the matter to the Board for arbitration.*

- (6) Yes___ No___ Is there any reason to conclude that the Board would be unable to provide an impartial Hearing Panel?

- (7) Yes___ No___ If the facts alleged in the request for arbitration were taken as true on their face, is the matter at issue related to a real estate transaction and is it properly arbitrable, i.e., is there some basis on which an award could be based?
- (8) Yes___ No___ If an arbitrable issue exists, are the parties required to arbitrate or is their participation voluntary?
- (9) Yes___ No___ Is the amount in dispute too small or too large for the Board to arbitrate?
- (10) Yes___ No___ Is the matter too legally complex, involving issues that the arbitrators may not be able to address in a knowledgeable way?
- (11) Yes___ No___ Are there a sufficient number of knowledgeable arbitrators available?

If all of the relevant questions have been considered, and a majority of the Grievance Committee conclude that the matter is properly arbitrable by the Board, the Grievance Committee shall send the request for arbitration to the Chairperson of the Professional Standards Committee for arbitration by an arbitration Hearing Panel. Complainants are not required to prove their case when initially filing an arbitration request. An arbitration request may not be dismissed for lack of evidence if the arbitration request is otherwise arbitrable, timely filed, and the arbitration is one of the circumstances described in Section 44, Duty and Privilege to Arbitrate. (Revised 11/15)

GRIEVANCE COMMITTEE ACTION ON ARBITRATION REQUEST

Yes ___ No ___ The matter describes a mandatory arbitration situation, involving a dispute:

___ Between a REALTOR® principal or Non-resident (principal) member of different firms.

___ Between a REALTOR® or Non-resident member (other than a principal) and another REALTOR® or Non-resident member (other than a principal) in a different firm provided the principal joins in the Request and requests arbitration with the principal broker of the other firm.

___ Between a client and a REALTOR® or Non-Resident member, if the client agrees to be bound by the arbitration.

OR

Yes ___ No ___ The matter describes a voluntary arbitration situation, involving a dispute:

___ Between REALTORS® and Non-residents affiliated with the same firm.

___ Between REALTORS® (principals) or Non-resident (principals) and non-member brokers.

___ Between a customer and a REALTOR® or a Non-resident member. If a contractual agreement has been created and all parties agree to be bound by the decision.

The Grievance Committee has determined that the Arbitration Request is:

- ___ Appropriate for Arbitration for the Association and
- ___ Constitutes a mandatory arbitration situation
- ___ Constitutes a voluntary arbitration situation.
- ___ Not Appropriate for Arbitration by the Association.

Chairman: _____ Date: _____

Pathways to Professionalism

Respect for the Public

Follow the "Golden Rule": Do unto other as you would have them do unto you.

Respond promptly to inquiries and requests for information.

Schedule appointments and showings as far in advance as possible.

Call if you are delayed or must cancel an appointment or showing.

If a prospective buyer decides not to view an occupied home, promptly explain the situation to the listing broker or the occupant.

Communicate with all parties in a timely fashion.

When entering a property ensure that unexpected situations, such as pets, are handled appropriately.

Leave your business card if not prohibited by local rules.

Never criticize property in the presence of the occupant.

Inform occupants that you are leaving after showings.

When showing an occupied home, always ring the doorbell or knock—and announce yourself loudly before entering. Knock and announce yourself loudly before entering any closed room.

Present a professional appearance at all times; dress appropriately and drive a clean car.

If occupants are home during showings, ask their permission before using the telephone or bathroom.

Encourage the clients of other brokers to direct questions to their agent or representative.

Communicate clearly; don't use jargon or slang that may not be readily understood.

Be aware of and respect cultural differences.

Show courtesy and respect to everyone.

Be aware of—and meet—all deadlines.

Promise only what you can deliver—and keep your promises.

Identify your REALTOR® and your professional status in contacts with the public.

Do not tell people what you think—tell them what you know.

II. Respect for Property

Be responsible for everyone you allow to enter listed property.

Never allow buyers to enter listed property unaccompanied.

When showing property, keep all members of the group together.

Never allow unaccompanied access to property without permission.

Enter property only with permission even if you have a lockbox key or combination.

When the occupant is absent, leave the property as you found it (lights, heating, cooling, drapes, etc.) If you think something is amiss (e.g. vandalism), contact the listing broker immediately.

Be considerate of the seller's property. Do not allow anyone to eat, drink, smoke, dispose of trash, use bathing or sleeping facilities, or bring pets. Leave the house as you found it unless instructed otherwise.

Use sidewalks; if weather is bad, take off shoes and boots inside property.

Respect sellers' instructions about photographing or videographing their properties' interiors or exteriors.

III. Respect for Peers

Identify your REALTOR® and professional status in all contacts with other REALTORS®.

Respond to other agents' calls, faxes, and e-mails promptly and courteously.

Be aware that large electronic files with attachments or lengthy faxes may be a burden on recipients.

Notify the listing broker if there appears to be inaccurate information on the listing.

Share important information about a property, including the presence of pets, security systems, and whether sellers will be present during the showing.

Show courtesy, trust, and respect to other real estate professionals.

Avoid the inappropriate use of endearments or other denigrating language.

Do not prospect at other REALTORS®' open houses or similar events.

Return keys promptly.

Carefully replace keys in the lockbox after showings.

To be successful in the business, mutual respect is essential.

Real estate is a reputation business. What you do today may affect your reputation—and business—for years to come.

ARTICLE 1 CASE STUDY

Ima Wezall managed an apartment building owned by Bobby Blanchard. In his capacity as property manager, Ima Wezall received a written offer to purchase the building from Cruella Jule. Ima responded that the building was not for sale.

A few days later Cruella Jule met Bobby Blanchard and told him that she thought she had made an attractive offer through his agent, and indicated that she would be interested in knowing what price would interest him. Bobby Blanchard answered that he had received no offer through Ima and asked for the details.

Bobby Blanchard then filed a complaint against Ima with the local Board of REALTORS® charging failure to represent and promote his interests. His complaint specified that while Ima had been engaged as his property manager, he had at no time told her not to submit any offers to buy, and that in the absence of any discussion whatever on this point, he felt that she should have recognized a professional obligation to acquaint him with Cruella Jule's offer which, he stated in the complaint, was definitely attractive to him.

Ima was notified of the complaint and directed to appear before a panel of the Board's Professional Standards Committee. In her defense, she stated that her only relationship with Bobby Blanchard was a property manager under the terms of a management contract; that she had not been engaged as a broker; that at no time had the client ever indicated an interest in selling the building; that in advising Cruella Jule that the property was not on the market, she felt that she was protecting her client against an attempt to take his time in discussing a transaction which she felt certain would not interest him.

Ethics and Arbitration Exercise

Bob Turner, a broker with Just for you Realty was working with buyer's from out of the area. On one of their previous visits, they had identified an area they were particularly interested in. In preparation for their appointment the next day Bob was searching through the MLS and setting up appointments for all the available homes in that neighborhood.

The Williams arrived the next day, February 1, 2020 to look at the homes with Bob and were excited to learn there were 4 homes and all in their price range. While driving through the neighborhood, the buyer's noticed a For Sale sign on a home that was not on their list. When they asked Bob why he had not made an appointment to see that one he was dumbfounded because he was certain he had pulled all the homes available through the MLS.

Bob pulled out his phone and called the listing agent, Ima Wezall, who's name and number were on the sign. Getting Ima's voice mail, he left a message inquiring about the home. Bob then called his office and asked someone to check to see if the home was in MLS. Sure enough, it was not an active listing. He assured his clients he would gather more info before they met again the next day and make an appointment to see the property if it was available.

Later that afternoon, Ima called Bob. When Bob asked why he could not find it in MLS, Ima replied that it had expired but the sellers were going to re-list the property. Trusting Ima, Bob and his clients visited the home the next day. Although his clients liked the home, they chose to make an offer on another home in the same neighborhood.

After 4 months of negotiating on a short sale property, the buyers decided to move on to another home and asked Bob to check into the last home they had seen to see if it was listed and still available. After searching through the MLS, Bob still could not find the home. He decided to look under the expired listings and sure enough, there it was. It had been expired for over six months! The sign was still in the yard, the agent still getting calls and still not re-listed. Bob was angry that he had been misled by the "listing agent". He wondered how many calls the listing agent received from that sign over the last six months when it was not actively listed? Isn't that a violation of MLS rules or something? What should he do?

First, he needed to get some information from Ima. On June 15, 2020

Bob called her to see if the owners still wanted to sell the home. Ima said yes and to bring her an offer. Since the home was not active in the MLS, the offer was accompanied by a Confirmation of Compensation form stating that if he produced the buyer he would expect a 3% co-broke commission as previously offered through MLS.

Bob and Ima successfully negotiated a deal between their clients and proceeded to closing. On the day before closing, Bob was reviewing the CD and noticed the co-broke commission was 2.5%, (not the 3% that had been on the form submitted with the offer) and the listing commission was 3.5%! When he called Ima, she responded that she never agreed to pay 3%, never signed the form and felt since she was able to bring this listing back from the dead, she was entitled to 3.5%. The sale closed on July 29, 2020.

1. What should Bob have done?
2. Did Bob or Ima violate the Code of Ethics? If so, which article/s?
3. Which Standards of Practice would support the claim?
4. Could and should Bob file an Ethics complaint against Ima? If so, which article/s? Which Standards of Practice would support the claim?
5. Could and should Bob file an Arbitration request against Ima?
6. Could and should Ima file an Ethics complaint against Bob? What Articles?
7. What is the last date Bob can file an Ethics complaint?
8. What is the last date Bob can file for Arbitration?

DUE PROCESS EXERCISE

Read each statement and check the box if you feel there has been a violation of due process.

- Bob filed an ethics complaint against Ima. He alleged a violation of Articles 1 for not being honest with him during a recent transaction, 3 for not cooperating and 12 for advertising a property for sale she did not have an active listing for.
- When Bob was searching homes for sale in a particular neighborhood, Ima's "listing" did not show in the results, however, when he googled the address, he was pointed to www.beachhouseobxmls.com and he did find the home under the For Sale section of the web site. When he clicked on the "About Us" tab he was shocked to see the site belonged to Ima Wezall.
- Bob wondered if you could use "mls" in a domain name for a personal web site and how she could be advertising property she didn't have listed.
- The Grievance Committee reviewed Bob's complaint and asked Ima Wezall to please respond with her version of the story and to submit proof that she in fact had a listing on the property in question.
- Ima's response was that she simply forgot to remove the sign and was not advertising that home for sale and Bob just had sour feelings toward her because she was more successful. Ima also said she was smart enough to use MLS in her domain name and it helped her get more traffic. The Grievance committee considered her response and dismissed the complaint.
- Bob appealed the GC's decision to dismiss the complaint to the Board of Directors and provided additional evidence of Ima's wrong doing.
- As per board policy, the Executive Committee reviewed the appeal.
- One member of the Executive Committee is affiliated with Ima's firm and one member is the President of the MLS.
- Based on the new evidence submitted by Bob, the Executive Committee overturned the GC's dismissal and the matter was scheduled for a hearing, the date set and parties were notified.
- On the day of the hearing, Ima did not show up and no one could reach her. The hearing panel Chair decided something must be seriously wrong for her not to show up and decided to postpone and reschedule the hearing. When Bob objected, he was told that the Chair had the authority to make that decision and he would be expected to return on the new date.

- A new hearing was held, Ima did not show up. The evidence was presented and Ima and was found in violation of Article 12.
- Neither Bob or Ima appealed the decision.
- When reviewing the decision, the Executive Committee expressed their concern that no time frame had been included for Ima to complete the discipline and they felt like Ima should also have to take a course on Ethics and Advertising. The hearing panel agreed with the changes and Ima was notified of the discipline.

Instructions

1. When you go into a breakout room please remember what room you are in. Everyone will return to the same breakout room during the sessions today and tomorrow.
2. Pick a Spokesperson for your Group. Your Spokesperson can change each time.
3. Pay attention to the Page number given for the exercise.
4. At the end of the second session (tomorrow) you will go into your breakout rooms to choose two members of your group to play kahoot on behalf of your team. You will have spent some time with them previously so pay attention to who might best represent your “team” in the game.
5. If you are chosen as a team rep, please enter your name followed by your breakout group #.
6. To log onto the kahoot game, go to kahoot.it enter the game code , enter your name followed by your breakout group number and get ready to play for bragging rights.