

## **NC REALTORS® Citation Program**

(amended by NC REALTORS® Executive Committee 06/04/2018)

### **I. Review by Citation Panel**

A. Notwithstanding anything to the contrary in Sections 19 or 20 of the *Code of Ethics and Arbitration Manual*, in any instance where the Grievance Committee determines that the complaint should be forwarded for a hearing, the Secretary will first forward the complaint to the Association's Citation Panel to determine if it is a "citable offense," i.e., it includes allegations covered by the Citation Schedule attached hereto as Exhibit A. The Citation Panel shall be comprised of at least three (3) members of the Professional Standards Committee, who will review complaints to determine eligibility for the citation program and the appropriate citations. Panel members shall be selected by the Chairperson of the Professional Standards Committee on a case-by-case basis, and shall have significant experience in hearing professional standards cases.

B. If the Citation Panel determines that the complaint does not include alleged violations included in the Citation Schedule, or it includes some covered by the Citation Schedule and some that are not, the complaint shall be referred to the Professional Standards Committee for hearing consistent with the policies and procedures set forth in the *Manual* for ethics hearings.

C. If the complaint includes *only* allegations of violations included in the Citation Schedule, the Citation Panel will issue a citation pursuant to Section II below and impose discipline consistent with the association's Citation Schedule. In the event the members of the Citation Panel determine the conduct described in the complaint is sufficiently egregious to warrant a hearing rather than a citation, the complaint shall be referred to the Professional Standards Committee for hearing consistent with the policies and procedures set forth in the *Code of Ethics and Arbitration Manual* for ethics hearings.

### **II. Issuance of Citations**

A. Citations will be sent to respondents. A copy of the citation shall also be sent to the REALTOR® principal of respondents' office. If the respondent changes firms before or after the complaint is filed but before the citation is issued, both the former and current REALTOR® principal will receive a copy of the citation.

B. Staff will prepare a written summary of the complaint, and the summary will be included with the citation to give the respondent sufficient information to understand the basis of the citation. The citation will include the fine for the offense, as set forth in Exhibit A. The fine will be the same whether the Citation Panel determines there is one or more than one citable offense in the complaint. In other words, there will be no increase in the fine because there is more than one citable offense in the complaint.

C. The identity of the complainant shall be kept confidential and unavailable to the respondent. The complainant shall be advised when filing a complaint that their identity will not remain confidential should the respondent request a hearing.

D. The respondent will have twenty (20) days from receipt of the citation to request a full due process hearing on the complaint. If the respondent does not reply within ten (10) days of receiving the citation, a notice shall be issued to the respondent reminding the respondent of the deadline for requesting a hearing.

E. If the respondent accepts the citation, or if the respondent does not request a hearing within twenty (20) days of receipt of the citation, this shall be deemed to be a final resolution of the complaint, which shall not be appealable or subject to any further review.

F. If the respondent accepts the citation, or if the respondent does not request a hearing within twenty (20) days of receipt of the citation, payment must be received by the Association no later than five (5) business days after the date of acceptance or time period to request a hearing has elapsed. The case will be deemed to be closed upon receipt of payment, and notice will be provided to the complainant that a citation has been issued and paid.

G. Failure to timely pay the citation amount will result in the automatic suspension of membership until the citation has been paid.

H. If the respondent requests a hearing within the time specified, the complaint shall be referred for hearing. The complainant who initially filed the complaint shall be given the option to proceed as the complainant for the purposes of the hearing, and will be afforded all due process rights provided for in the *Manual*. Should the complainant be a member of the public who refuses or is unable to participate in the hearing, or should the complainant be a REALTOR® member who refuses or is unable to participate in the hearing, the provisions of Section 21(f)(3) in the *Manual* shall apply.

### **III. Limitations**

A. Any REALTOR® is limited in the number and type of citations that he/she may receive, according to the following rules:

1. No more than two (2) citations will be issued to a member within a consecutive twelve (12) month period, starting on the date the first complaint was filed, at the same association.
2. No more than three (3) citations will be issued to a member within a consecutive thirty-six (36) month period, starting on the date the first complaint was filed, at the same association.
3. No additional citations are permitted where the cumulative fine for the citations issued would be more than \$5,000 in any three (3) year period at the same association.

4. The citation panel may only consider any past citations for the particular conduct alleged in the complaint.

B. The fact that a respondent has previously been issued a citation for any violation – whether or not it was paid – shall not be admissible in any ethics or arbitration hearing, including a hearing to consider a complaint where the respondent rejected a citation and requested a hearing. A hearing panel may consider citations previously issued to the respondent for the purpose of determining appropriate discipline as provided in Subsection IV below.

C. Citations will not be considered in any publication of violations.

D. Where a hearing panel finds a violation of the Code of Ethics after a hearing, it may consider past citations in determining an appropriate sanction only if the citation was issued for the same violation at issue in the hearing. By way of example, if a citation was issued for failure to disclose a dual or variable rate commission under Standard of Practice 3-4, that citation could not be considered if a hearing panel later found a violation of Article 3 on some other grounds. Hearing panels will not be informed of past citations for other violations.

E. Association staff will track the number of citations issued, the number of citations paid, and the violations for which citations were issued. This information may be provided in the aggregate to the Executive Committee and Board of Directors, but will not include details about the complaints, nor identify the complainants or respondents.

**EXHIBIT A to NC REALTORS® Citation Program  
Citation Schedule**

**NOTE: Fines for each citable offense listed below shall be \$300 for a first citation, \$900 for a second citation, and \$1500 for a third citation issued in accordance with the rules established in Section III**

<b>Applicable Article and Standard of Practice</b>	
<b>Article 12</b>	
Failing to present a true picture in real estate communications and advertising	Article 12
Failing to disclose status as real estate professional in advertising and other representations	Article 12
Failure to provide all terms governing availability of a “free” product or service in an advertisement or other representation	Article 12, supported by Standard of Practice 12-1
Failure to disclose potential to obtain a benefit from third party when REALTOR® represents their services as “free” or without cost	Article 12, supported by Standard of Practice 12-2
Failure to exercise care and candor when communicating the terms and conditions of premiums, prizes, merchandise discounts or other inducements to list, sell, purchase, or lease	Article 12, supported by Standard of Practice 12-3
Advertising property for sale/lease without authority of owner or listing broker	Article 12, supported by Standard of Practice 12-4
Failing to disclose name of firm in advertisement for listed property	Article 12, supported by Standard of Practice 12-5
Failing to disclose status as both owner/landlord and REALTOR® or licensee when advertising property in which REALTOR® has ownership interest	Article 12, supported by Standard of Practice 12-6
Falsely claiming to have “sold” property	Article 12, supported by Standard of Practice 12-7
Failure to take corrective action when it becomes apparent that information on a REALTOR®’s website is no longer current or accurate	Article 12, supported by second sentence of Standard of Practice 12-8

<b>Applicable Article and Standard of Practice</b>	
Failure to disclose firm name and state of licensure on REALTOR® firm website	Article 12, supported by Standard of Practice 12-9
Misleading consumers through deceptive framing, manipulating content, deceptively diverting internet traffic, or presenting other's content without attribution or permission	Article 12, supported by Standard of Practice 12-10
Registering or using of deceptive URL or domain name	Article 12, supported by Standard of Practice 12-12
Representing that the REALTOR® has a designation, certification, or other credential they are not entitled to use	Article 12, supported by Standard of Practice 12-13