



GRI 401

Doing Things the Right Way
Ethics & Professionalism

TREEF
TENNESSEE
REAL ESTATE
EDUCATION
FOUNDATION



TREEF

T E N N E S S E E
R E A L E S T A T E
E D U C A T I O N
F O U N D A T I O N

The material contained within this course, including this handout, was developed exclusively for the Tennessee Real Estate Educational Foundation, LLC. (TREEF) in cooperation with Tennessee REALTORS®. The material is for the sole use of course instructors approved by the Tennessee Real Estate Commission and TREEF. Any unauthorized use is strictly prohibited.

Course Introduction

This one-day course covers the Code of Ethics and the broader issue of professionalism in real estate practice, addressing the most troubling ethical challenges and concerns that arise in everyday practice, the effective resolution of conflicts when they arise, and other topics such as: confidentiality, inter-agent communications, procuring cause, ombudsman program, grievance filing, mediation and arbitration.

GRI 401 Learning Objectives

Upon completion of this course, participants will be able to:

1. Recognize recent changes to the Code of Ethics.
2. Identify the most common ethical violations occurring in real estate practice (and how to avoid them!)
3. Recognize our duty of confidentiality.
4. Ethically submit and work all offers to purchase.
5. Resolve conflicts that arise more effectively.
6. Identify the factors that actually determine procuring cause in a transaction.
7. Recognize the differences between mediation and arbitration, and when each is best used.
8. Describe what true professionalism looks like in real estate practice!



Course Content

Part 1 Keeping Current on the Code of Ethics

Part 2 Duties to Clients and Customers

Part 3 Conflict Resolution: Ombudsman and Mediation

Part 4 Procuring Cause and Arbitration

Part 5 Mediation and Arbitration

Part 6 Filing a Grievance

Part 7 What Does True Professionalism Look Like?

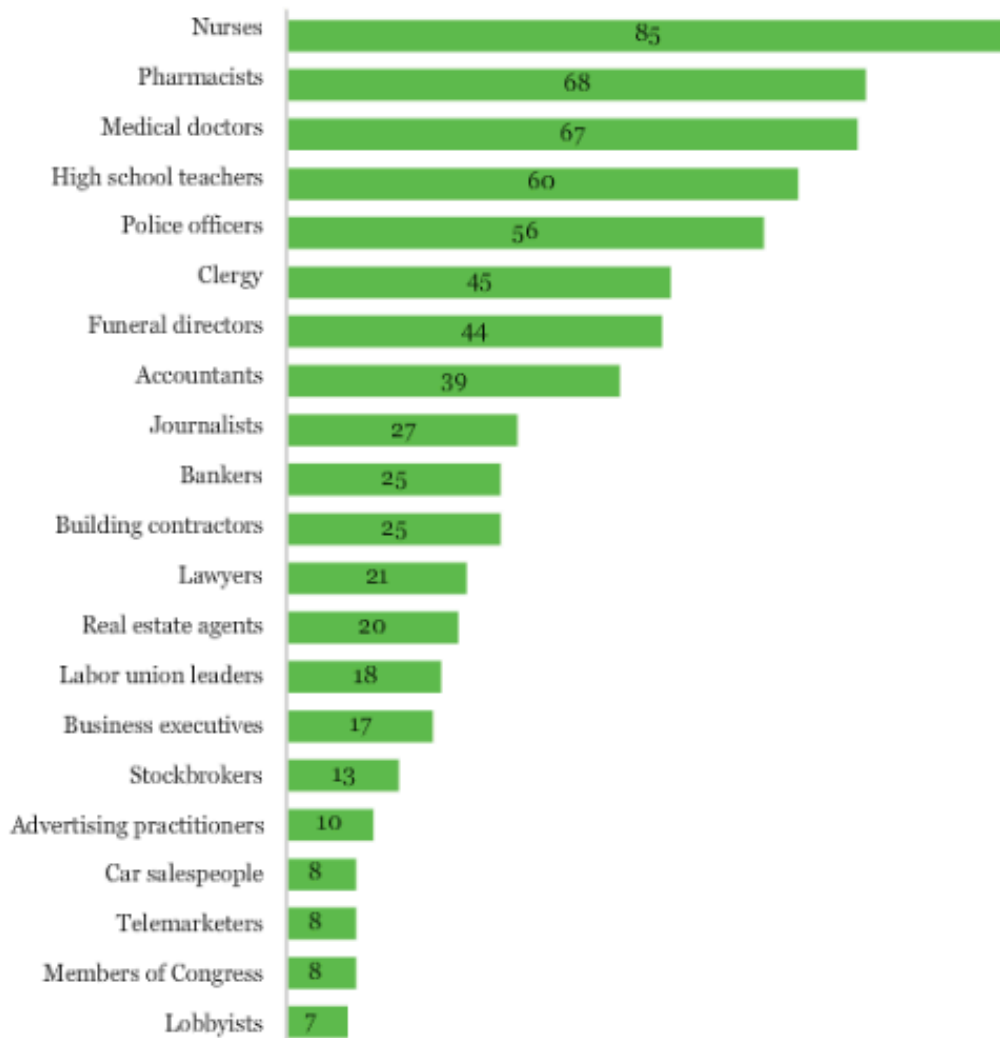
Appendix

Honesty/Ethics in Professions

Please tell me how you would rate the honesty and ethical standards of people in these different fields -- very high, high, average, low or very low?

Dec. 2-6, 2015

■ % Very high/High



GALLUP

Real Estate Agents

| | Very high | High | Average | Low | Very low | No opinion | Very high/High |
|--------------------|------------------|-------------|----------------|------------|-----------------|-------------------|-----------------------|
| | % | % | % | % | % | % | % |
| 2015 Dec 2-6 | 2 | 18 | 53 | 20 | 5 | 2 | 20 |
| 2011 Nov 28-Dec 1 | 3 | 17 | 57 | 18 | 4 | 1 | 20 |
| 2008 Nov 7-9 | 3 | 14 | 57 | 21 | 4 | 2 | 17 |
| 2005 Nov 17-20 | 2 | 18 | 58 | 16 | 4 | 2 | 20 |
| 2002 Nov 22-24 | 2 | 17 | 57 | 19 | 3 | 2 | 19 |
| 2000 Nov 13-15 | 2 | 15 | 58 | 19 | 4 | 2 | 17 |
| 1999 Nov 4-7 | 1 | 13 | 58 | 23 | 3 | 2 | 14 |
| 1998 Oct 23-25 | 3 | 13 | 60 | 17 | 5 | 2 | 16 |
| 1997 Nov 6-9 | 3 | 13 | 56 | 20 | 3 | 4 | 16 |
| 1996 Dec 9-11 | 2 | 14 | 56 | 20 | 5 | 4 | 16 |
| 1995 Oct 19-22 | 2 | 13 | 56 | 21 | 5 | 3 | 15 |
| 1994 Sep 23-25 | 1 | 13 | 57 | 23 | 4 | 2 | 14 |
| 1993 July 19-21 | 1 | 14 | 57 | 21 | 4 | 3 | 15 |
| 1992 Jun 26-July 1 | 2 | 12 | 55 | 22 | 4 | 5 | 14 |
| 1991 May 16-19 | 2 | 15 | 54 | 18 | 4 | 7 | 17 |
| 1990 Feb 8-11 | 2 | 14 | 54 | 21 | 4 | 5 | 16 |
| 1988 Sep 23-26 | 3 | 10 | 47 | 27 | 7 | 6 | 13 |
| 1985 July 12-15 | 3 | 12 | 49 | 25 | 6 | 6 | 15 |
| 1983 May 20-23 | 2 | 11 | 52 | 21 | 7 | 7 | 13 |
| 1981 July 24-27 | 3 | 11 | 48 | 22 | 8 | 8 | 14 |
| 1977 July 22-25 | 2 | 13 | 51 | 24 | 7 | 3 | 15 |

GALLUP®

Part 1: Keeping Current on the Code of Ethics

At the foundation of your business is the Code of Ethics. The Preamble, Articles, and Standards of Practice therein provide the duties and responsibilities for operating as a REALTOR®.

Duties to Clients and Customers

Articles 1 - 9

Duties to the Public

Articles 10 - 14

Duties to REALTORS®

Articles 15 - 17

Basic Principles of the Code of Ethics

1. Protect and promote your client's interests, but be honest with all parties.
2. Avoid exaggeration, misrepresentation, and concealment of pertinent facts. Do not reveal facts that are confidential under the scope of your agency relationship.
3. Cooperate with other real estate professionals to advance your client's best interests.
4. When buying or selling, make your position in the transaction or interest known.
5. Disclose present or contemplated interest in any property to all parties.
6. Avoid side deal without your client's informed consent.
7. Accept compensation from only one party, except with full disclosure and informed consent.
8. Keep the funds of clients and customers in escrow.
9. Assure, whenever possible, that transaction details are in writing.
10. Provide equal service to all clients and customers.
11. Be knowledgeable and competent in the fields of practice in which you ordinarily engage. Obtain assistance or disclose lack of experience if necessary.
12. Communicate honestly and present a true picture in your advertising, marketing and other representations.
13. Do not engage in the unauthorized practice of law.
14. Be a willing participant in Code enforcement procedures.
15. Ensure that your comments about other real estate professionals are truthful, and not misleading.
16. Respect the exclusive representation or exclusive brokerage relationship agreements that other REALTORS® have with their clients
17. Arbitrate and mediate contractual and specific non-contractual disputes with other REALTORS® and with your clients.

Recent Changes to the Code of Ethics

The REALTOR® Code of Ethics is a dynamic, living document that guides our professional activities and our relationships with other practitioners. *“While the Code of Ethics establishes obligations that may be higher than those mandated by law, in any instance where the Code of Ethics and the law conflict, the obligations of the law must take precedence.”*

Standard of Practice 12-5

REALTORS® shall not advertise nor permit any person employed by or affiliated with them to advertise real estate services or listed property in any medium (e.g., electronically, print, radio, television, etc.) without disclosing the name of that REALTORS® firm in a reasonable and readily apparent manner either in the advertisement via a link to a display with all required disclosures. (Adopted 11/86, Amended 1/16) *(Note: There were no changes in 2016 to this Standard of Practice.)*

Duties to Clients and Customers

Examples of Common Code Violations

- a. Compromising Confidential Information
- b. Failure to Disclose Agency Status
- c. Failure to submit all offers objectively and as quickly as possible
- d. Failure to timely deliver copies upon signing.

Real-life Ethical Challenges Faced in Real Estate

“Violation or Not a Violation”

1. You are on your way to a concert when you get a call that an offer on one of your listings is at your office. The offer expires in 36 hours. You decide to wait until morning to pick up the offer and present it to the sellers.
 - ☐ Violation
 - ☐ Not a violation
2. Since the house is a vacant foreclosure, you comply with your buyer’s wish that you leave the back door open so that your buyer can bring his parents by later the same afternoon. You check the house later that afternoon to make sure that it is secure.
 - ☐ Violation
 - ☐ Not a violation
3. Your client, the attorney, says that she thinks the list price should be \$330,000. Based on your research, you feel that the property is worth more like \$350,000. She’s the boss so you say nothing.
 - ☐ Violation
 - ☐ Not a violation
4. Late one night, you meet your clients in a parking lot so that they can sign documents to complete the transaction. You tell them that you will get copies to them sometime tomorrow. They say, “OK.”
 - ☐ Violation
 - ☐ Not a violation
5. Your Bosnian customers say that they would really like to live close to other Bosnians. You decide to put them in touch with a Bosnian friend so that they can discuss neighborhoods.
 - ☐ Violation
 - ☐ Not a violation
6. You are contacted to list a complex commercial property. You keep your lack of experience to yourself and respond to the seller that you will gladly take the listing.
 - ☐ Violation
 - ☐ Not a violation

Part 2: Duties to Clients and Customers

What CAN and CANNOT Be Said or Done when Working with a Cooperative Agent

Basic Principle of the Code of Ethics – Protect and promote your client's interests, but be honest with all parties.

A. Confidentiality of customer/client communications

In discussing offers and contracts, perhaps one of the most important areas is confidentiality. In a multiple offer situation, it is imperative that you use extra care in regards to what you are disclosing. Each cooperating agent should be working from the same set of facts to ensure a level playing field.

The following is the Tennessee state law highlighting (in section 3) confidentiality.

§ 62-13-403. Duty owed to all parties.

A licensee who provides real estate services in a real estate transaction shall owe all parties to such transaction the following duties, except as provided otherwise by § 62-13-405, in addition to other duties specifically set forth in this chapter or the rules of the commission:

- (1) Diligently exercise reasonable skill and care in providing services to all parties to the transaction;
- (2) Disclose to each party to the transaction any adverse facts of which licensee has actual notice or knowledge;**
- (3) Maintain for each party to a transaction the confidentiality of any information obtained by a licensee prior to disclosure to all parties of a written agency or sub-agency agreement entered into by the licensee to represent either or both of the parties in a transaction. This duty of confidentiality extends to any information which the party would reasonably expect to be held in confidence, except for information which the party has authorized for disclosure, information required to be disclosed under this part, and information otherwise required to be disclosed pursuant to this chapter. This duty survives both the subsequent establishment of an agency relationship and the closing of the transaction;**
- (4) Provide services to each party to the transaction with honesty and good faith;**
- (5) Disclose to each party to the transaction timely and accurate information regarding market conditions that might affect such transaction only when such information is available through public records and when such information is requested by a party.
- (6) Timely account for trust fund deposits and all other property received from any party to the transaction; and
- (7) (A) Not engage in self-dealing nor act on behalf of licensee's immediate family, or on behalf of

any other individual, organization or business entity in which the licensee has a personal interest without prior disclosure of such interest and the timely written consent of all parties to the transaction; and

- (B) Not recommend to any party to the transaction the use of services of another individual, organization or business entity in which the licensee has an interest or from whom the licensee may receive a referral fee or other compensation for the referral, other than referrals to other licensees to provide real estate services under the Tennessee Real Estate Broker License Act of 1973, without timely disclosing to the party who receives the referral, the licensee's interest in such referral or the fact that a referral fee may be received. [Acts 1995, ch. 246, § 5; 1996, ch. 772, §§ 5, 6.]

Fiduciary Duty Is Not Expendable Like a Hat

At the height of the economic downturn a few years ago, a Tennessee broker talked her client into selling her troubled properties for \$10 to a firm the broker owned. Today, the broker is barred from practicing real estate, her license permanently revoked. The broker's wrongdoing? She thought she could take her broker hat off and replace it with her buyer hat whenever she wanted. A Tennessee appellate court said she couldn't do that.

In 2007, broker Donna Bobo represented Shalah Smith in Smith's \$60,000 purchase of a string of rental properties. Soon thereafter, Smith faced foreclosure on the properties and came to Bobo for guidance. Bobo advised Smith of three options: allow the foreclosure, enter a short sale, or, in order to avoid impacting her credit record, quitclaim the property to Global Investment Services, a limited liability partnership that Bobo owned, for \$10.

Smith chose the last option, and signed the properties over to Global. In their written agreement, Global agreed to collect rent, maintain the property, and pay the mortgages on time. If it failed to do so, Global would convey the properties back to Smith within 30 to 60 days. The mortgages and related liabilities remained in Smith's name.

Global failed to pay the mortgages in a timely fashion, and Smith received notice that the properties were in default. Once again facing foreclosure proceedings, Smith demanded that Bobo return the properties, per their agreement. But Bobo refused, and Smith filed a complaint with the Tennessee Real Estate Commission. A Tennessee broker learned the hard way that you can't just easily switch roles between buyer and broker. A Tennessee broker learned the hard way that you can't just easily switch roles between buyer and broker.

In proceedings, Bobo argued that, although she was both a real estate broker and a property manager for Smith at various times, her actions were not subject to the state's Real Estate Broker Act. That's because, when Smith quitclaimed the properties to Bobo's company, Bobo was acting as a purchaser, not as Smith's real estate representative.

The commission rejected this argument, saying “equity will not tolerate such a deal,” and permanently revoked Bobo’s real estate license. The commission found Bobo had made false representations to her client, induced her client to enter into an unconscionable contract, and manipulated her client for her own gain.

A relationship of trust between broker and client, the court said in its ruling, “once assumed, continues until discharged either by operation of law, by order of a tribunal, or pursuant to a valid agreement of the parties.” In other words, brokers cannot avoid their fiduciary duties simply by claiming to have switched from the broker hat to the purchaser hat.

The Tennessee Court of Appeals affirmed the decision.

Realtor Mag, September 2014. Jessica Edgerton

<http://realtormag.realtor.org/law-and-ethics/in-court/article/2014/09/fiduciary-duty-not-expendable-hat>

Multiple Offers- *How to Ethically Submit and Work all Offers to Purchase*

What steps would you take?

Part 3: Conflict Resolution: Ombudsman and Mediation

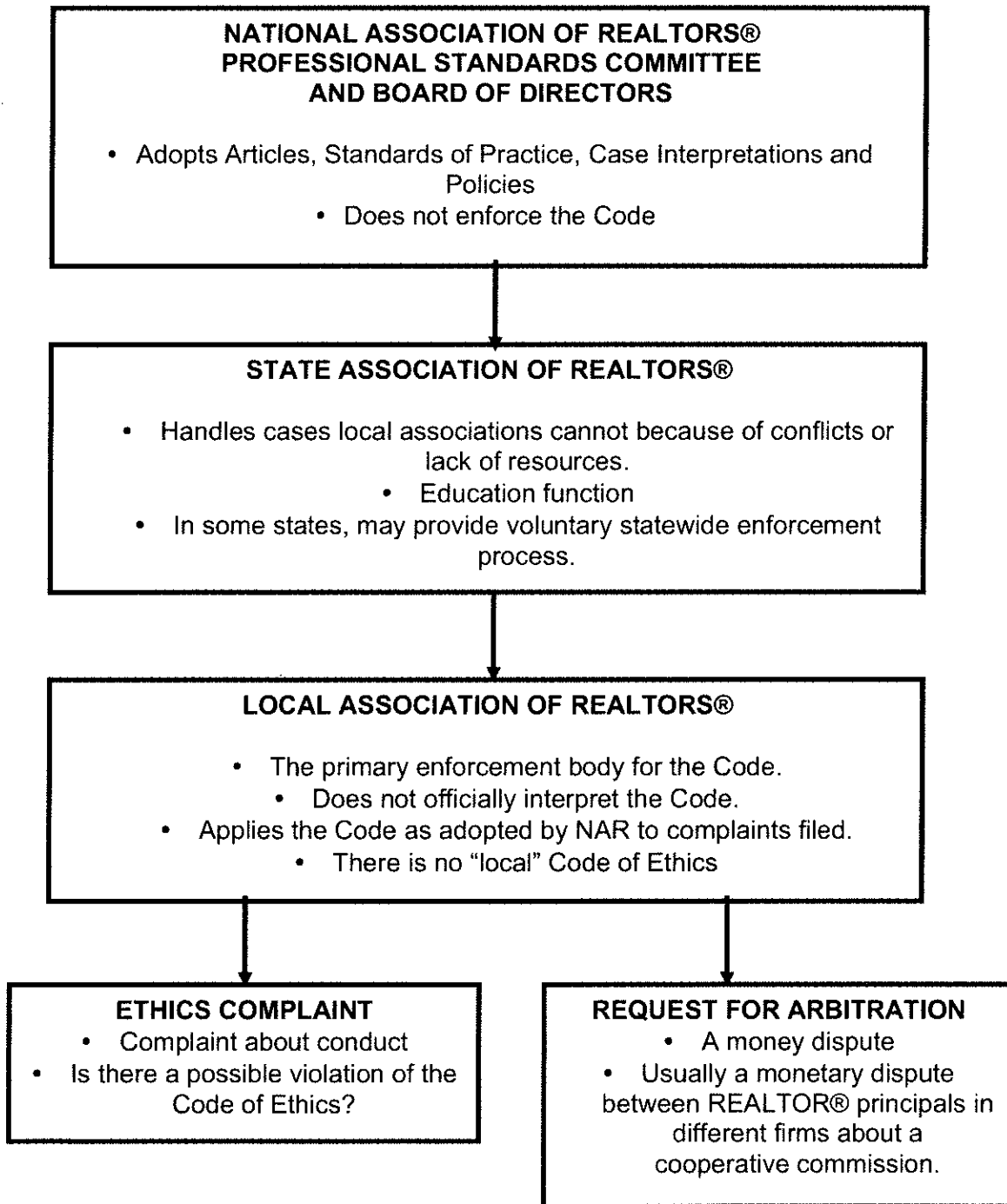
How to resolve issues in the early stages, before they are taken to a higher level

- a. Agent-to-Agent Communication**
- b. Broker-to-Broker communication**

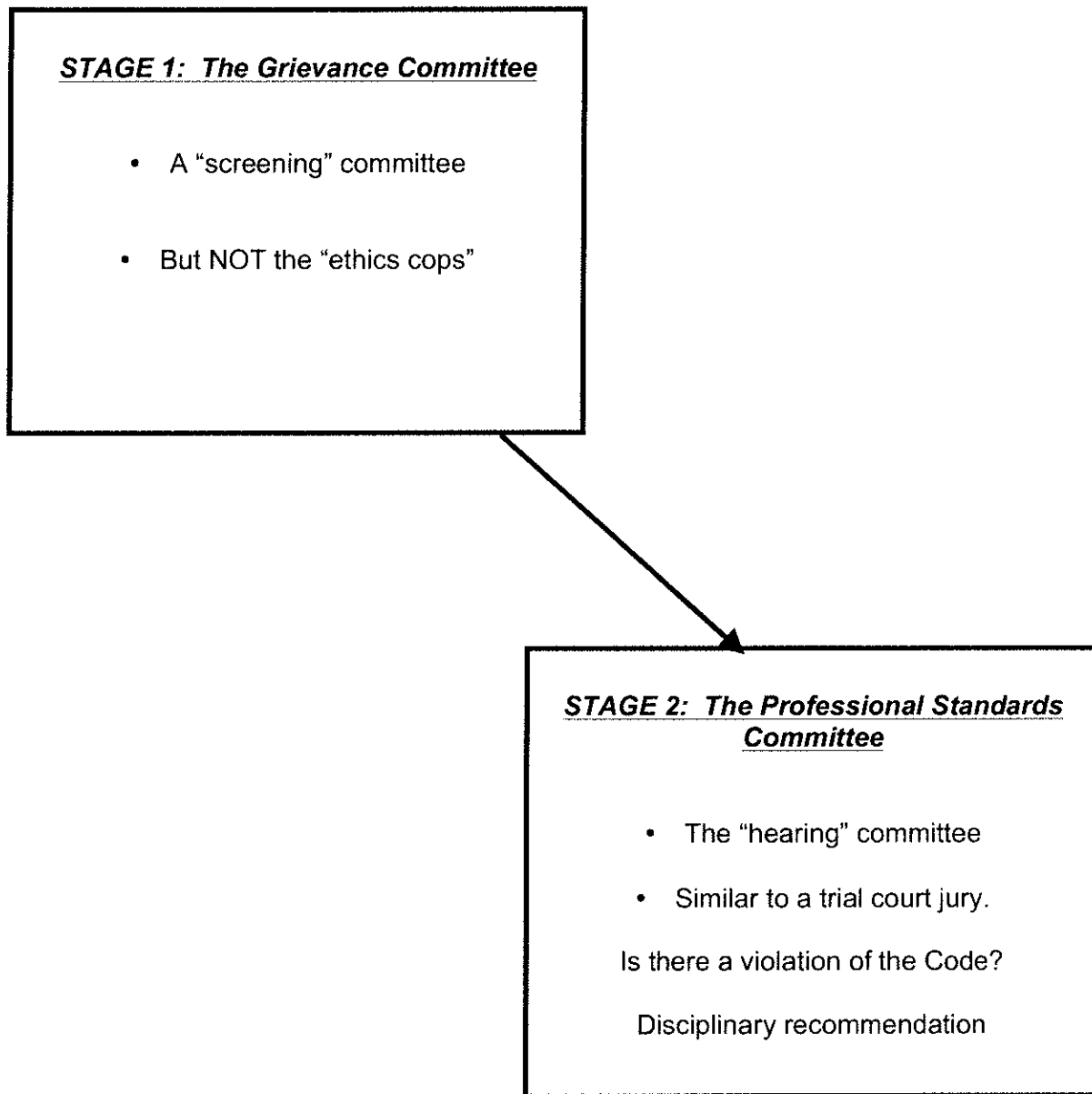
As of Jan. 1, 2016, all associations are required to offer ombudsman services to their members, clients, and customers either directly or through an agreement with other associations. The program offers an opportunity for informal resolution of an issue related to a communication breakdown.

Personal feelings of the agent on a course of action cannot override the lawful instructions of the client.

Overview of the Enforcement Process

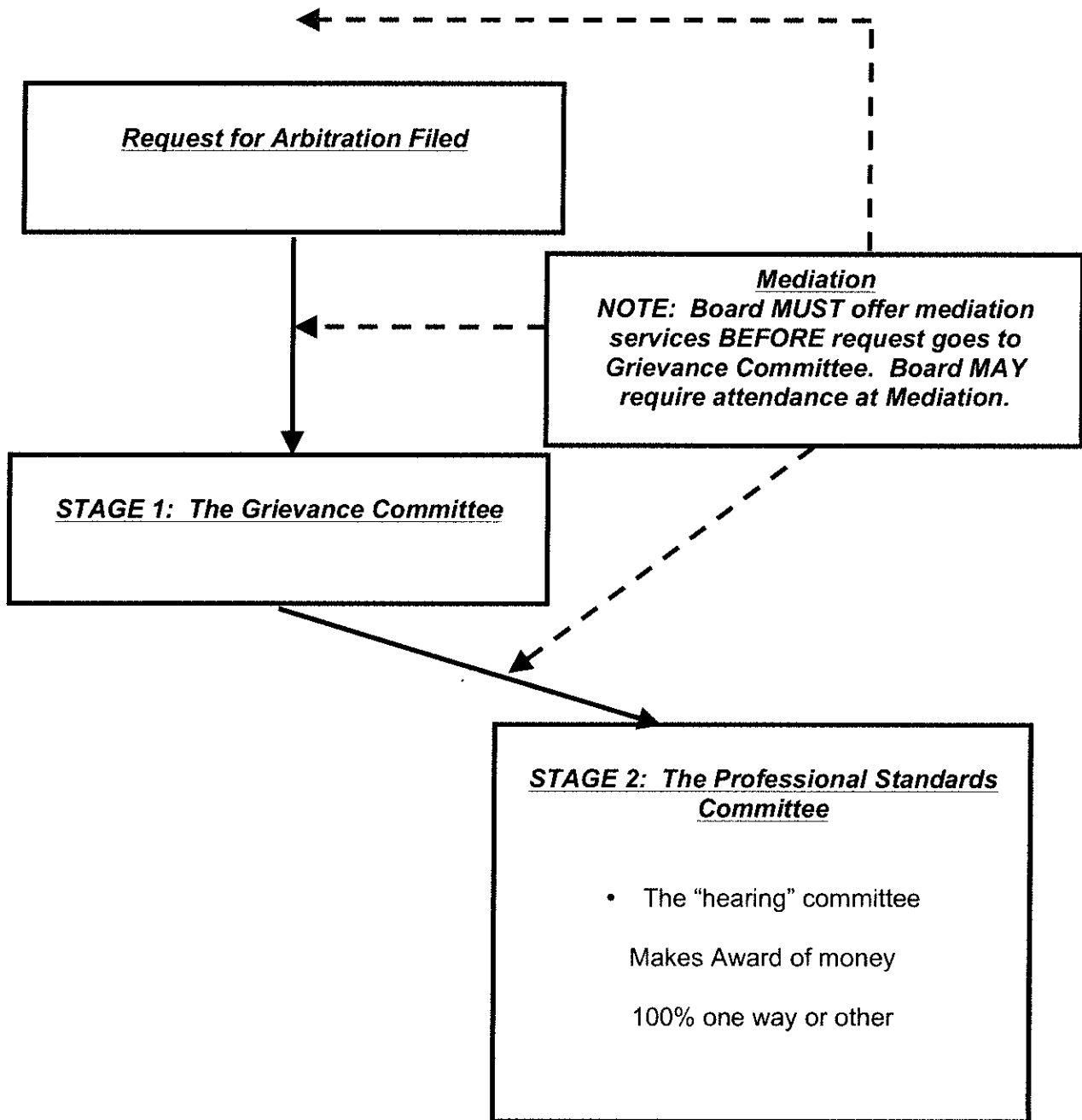


Ethics Complaints - The “Two Stage” Process



FINAL STAGE: Board of Directors (all ethics cases)

Arbitration Cases - The “Three Stage” Process



FINAL STAGE: Board of Directors (does not review at all except when a Request for Procedural Review (“appeal”) is filed.)

Part 4: Procuring Cause and Arbitration

Procuring Cause Case - You decide....

Luke, a listing agent for XYZ Real Estate, lists a property on Tuesday.

Bruce Harrison, a buyer/prospect, calls Theresa on Wednesday about her listing in the same neighborhood. He says, "This won't work, what else do you have in the area?" Theresa shows Luke's listing to Bruce. Bruce says, "I am staying at the Holiday Inn. Let me think it over."

Theresa tries repeatedly to contact Bruce, but he never returns her calls.

Ophelia, who works with Luke, offers to hold the house open on Sunday. Bruce comes and shows strong interest. Ophelia asks if he would like to make an offer. Bruce says, "Let me think it over."

Ophelia sends Bruce away with a partially completed "Purchase and Sales Agreement" clearly indicating her company logo and naming her as the selling agent. Like Theresa, she attempts to call Bruce later that evening, but he cannot be reached.

On Monday morning, Nancy, an agent from a competing firm, calls Luke and says, "I have an offer for you." Luke looks at the offer and notices that his firm name has been crossed out, and Ophelia's name has been "whited out." In its place is Nancy's name.

| The Players | |
|---------------|----------------------------------|
| Listing agent | Agents claiming the selling side |
| Luke | Threshold agent: Theresa |
| | Open house agent: Ophelia |
| | Agent with offer: Nancy |

\$\$\$ You Decide \$\$\$

...Who gets the \$3,000?

1. What Is Procuring Cause?

Procuring Cause

“The direct originating of a series of events which, if followed through without a break in continuity, results in a sale upon terms acceptable to the seller.”

In your own words, what does procuring cause mean?

Factors for consideration:

1. No pre-determined rule of _____

“Rules of thumb”, prior decisions by other panels and other pre-determinants are to be disregarded.

Procuring cause shall be the primary determining factor in entitlement to compensation.

The agency relationship with the client and entitlement to compensation are separate issues.

2. _____ and appropriate parties

While primarily the responsibility of the Grievance Committee, arbitration Hearing Panels may consider questions of whether an arbitrable issue actually exists.

3. Relevance and _____

The general rule is that anything the Hearing Panel believes may assist it in reaching a fair, equitable, and knowledgeable decision is admissible.

Arbitration Hearing Panels are called on to resolve contractual questions, not to determine whether the law or the Code of Ethics has been violated.

4. Communication and contact

_____ - lack of contact from the buyer’s point of view.

_____ - buyer doesn’t want to work with you.

5. Conformity with _____ law

Award must conform with other binding laws.

6. Consideration of the _____ course of events

The standard of proof is a preponderance of the evidence, and the initial burden of proof rests with the party requesting arbitration.

Factors for Consideration by Arbitration Hearing Panels

The following factors are recommended for consideration by hearing panels convened to arbitrate disputes between brokers, or between brokers and their clients or their customers. This list is not all-inclusive nor can it be. Not every factor will be applicable in every instance. The purpose is to guide panels as to facts, issues, and relevant questions that may aid them in reaching fair, equitable, and reasoned decisions.

Factor #1. No predetermined rule of entitlement

Factor #2. Arbitrability and appropriate parties

Factor #3. Relevance and admissibility

Factor #4. Communication and contact - abandonment and estrangement

Factor #5. Conformity with state law

Factor #6. Consideration of the entire course of events

The nature and status of the transaction

1. What was the nature of the transaction? Was there a residential or commercial sale/lease?
2. Is or was the matter the subject of litigation involving the same parties and issues as the arbitration?

The nature, status, and terms of the listing agreement

1. What was the nature of the listing or other agreement: exclusive right to sell, exclusive agency, open or some other form of agreement?
2. Was the listing agreement in writing? If not, is the listing agreement enforceable?
3. Was the listing agreement in effect at the time the sales contract was executed?
4. Was the property listed subject to a management agreement?
5. Were the broker's actions in accordance with the terms and conditions of the listing agreement?
 - a. Were all conditions of the listing agreement met?
 - b. Did the final terms of the sale meet those specified in the listing agreement?
 - c. Did the transaction close? (Refer to Appendix I to Part Ten, Arbitrable Issues)
 - d. Did the listing broker receive a commission? If not, why not?

The nature, status and terms of the offer to compensate

1. Was an offer of cooperation and compensation made in writing? If not, how was it communicated?
2. Is the claimant a party to whom the listing broker's offer of compensation was extended?
3. Were the broker's actions in accordance with the terms and conditions of the offer of cooperation and compensation (if any)? Were all conditions of the agreement met?

Roles and relationships of the parties

1. Who was the listing broker?
2. Who was the cooperating broker or brokers?
3. Were any of the parties acting as subagents? As buyer brokers? In some other capacity?
4. Did any of the cooperating brokers have an agreement, written or otherwise, to act as agent or in some other capacity on behalf of any of the parties?
5. Were any of the brokers (including the listing broker) acting as a principal in the transaction?
6. What were the brokers' relationships with respect to the seller, the purchaser, the listing broker, and any other cooperating brokers involved in the transaction?
 - a. Was the party to whom the property was sold represented by a party with whom the broker had previously dealt?
 - b. Is the primary shareholder of the buyer-corporation a party with whom the broker had previously dealt?
 - c. Was a prior prospect a vital link to the buyer?
7. Are all appropriate parties to the matter joined?

Initial contact with the purchaser

1. Who first introduced the purchaser or tenant to the property?
2. When was the first introduction made?
 - a. Was the introduction made when the buyer had a specific need for that type of property?
 - b. Was the introduction instrumental in creating the desire to purchase?
 - c. Did the buyer know about the property before the broker contacted him? Did he know it was for sale?
 - d. Were there previous dealings between the buyer and the seller?
 - e. Did the buyer find the property on his own?

3. How was the first introduction made?
 - a. Was the property introduced as an open house?
 - b. What subsequent efforts were made by the broker after the open house? (Refer to Factor #1)
 - c. Was the introduction made to a different representative of the buyer?
 - d. Was the "introduction" merely a mention that the property was listed?
 - e. What property was first introduced?

Conduct of the brokers

1. Were all required disclosures complied with?
2. Was there a faithful exercise of the duties a broker owes to his client/principal?
3. If more than one cooperating broker was involved, was either (or both) aware of the other's role in the transaction?
4. Did the broker who made the initial introduction to the property engage in conduct (or fail to take some action) which caused the purchaser or tenant to utilize the services of another broker? (Refer to Factor #4)
5. Did the cooperating broker (or second cooperating broker) initiate a separate series of events, unrelated to and not dependent on any other broker's efforts, which led to the successful transaction - that is, did the broker perform services which assisted the buyer in making his decision to purchase? (Refer to Factor #4)
 - a. Did the broker make preparations to show the property to the buyer?
 - b. Did the broker make continued efforts after showing the property?
 - c. Did the broker remove an impediment to the sale?
 - d. Did the broker make a proposal upon which the final transaction was based?
 - e. Did the broker motivate the buyer to purchase?
6. How do the efforts of one broker compare to the efforts of another?
 - a. What was the relative amount of effort by one broker compared to another?
 - b. What was the relative success or failure of negotiations conducted by one broker compared to the other?
7. If more than one cooperating broker was involved, how and when did the second cooperating broker enter the transaction?

Continuity and breaks in continuity (abandonment & estrangement)

1. What was the length of time between the broker's efforts and the final sales agreement?
2. Did the original introduction of the purchaser or tenant to the property start an uninterrupted series of events leading to the sale or lease, or was the series of events hindered or interrupted in any way?
 - a. Did the buyer terminate the relationship with the broker? Why? (Refer to Factor #4)
 - b. Did negotiations break down?
3. If there was an interruption or break in the original series of events, how was it caused, and by whom?
 - a. Did the seller change the listing agreement from an open listing to an exclusive listing agreement with another broker?
 - b. Did the purchaser's motive for purchasing change?
 - c. Was there interference in the series of events from any outside or intervening cause or party?
4. Did the broker who made the initial introduction to the property maintain contact with the purchaser or tenant, or could the broker's inaction have reasonably been viewed by the buyer or tenant as a withdrawal from the transaction?
5. Was the entry of any cooperating broker into the transaction an intrusion into an existing relationship between the purchaser and another broker, or was it the result of abandonment or estrangement of the purchaser, or at the request of the purchaser?

Conduct of the buyer

1. Did the buyer make the decision to buy independent of the broker's efforts/information?
2. Did the buyer negotiate without any aid from the broker?
3. Did the buyer seek to freeze out the broker?
 - a. Did the buyer seek another broker in order to get a lower price?
 - b. Did the buyer express the desire not to deal with the broker and refuse to negotiate through him?
 - c. Did the contract provide that no brokers or certain brokers had been involved?

Conduct of the seller

1. Was there bad faith evident from the fact that the difference between the original bid submitted and the final sales price equaled the broker's commission?
 - a. Was there bad faith evident from the fact that a sale to a third party was a straw transaction (one in which a non-involved party posed as the buyer) which was designed to avoid paying commission?
 - b. Did the seller freeze out the broker to avoid a commission dispute or to avoid paying a commission at all?
2. Was there bad faith evident from the fact that the seller told the broker he wouldn't sell on certain terms, but did so via another broker or via the buyer directly?

Leasing transactions

1. Did the cooperating broker have a tenant representation agreement?
2. Was the cooperating broker working with the "authorized" staff member of the tenant company?
3. Did the cooperating broker prepare a tenant needs analysis?
4. Did the cooperating broker prepare a market analysis of available properties?
5. Did the cooperating broker prepare a tour book showing alternative properties and conduct a tour?
6. Did the cooperating broker show the tenant the property leased?
7. Did the cooperating broker issue a request for proposal on behalf of the tenant for the property leased?
8. Did the cooperating broker take an active part in the lease negotiations?
9. Did the cooperating broker obtain the tenant's signature on the lease document?
10. Did the tenant work with more than one broker; and if so, why?

Part 5: Mediation and Arbitration

Local Board and Association Rules

A Closer Look at Mediation

What is Mediation?

Whenever people work, play, or live together, there's potential for disputes. And in our competitive business, we sometimes end up in conflict with one another.

REALTORS® have several options for resolving legal and ethical disputes, but mediation is becoming a common choice for settling both disputes between buyers and sellers and those between REALTORS®. It's also grown in favor in other industries and with federal courts.

Mediation is cost-effective and fast and gives you a significant role in the outcome. With litigation or arbitration, someone else makes the decision. But in mediation the parties have control and fully participate.

Mediation is a negotiation moderated by a neutral party and can last from a few hours to a full day. For the parties involved, the up-front preparation is time-consuming--writing letters, making phone calls, and taxing your people skills--but the payoff is remarkable: Mediators nationwide cite an 80 percent success rate in resolving disputes.

In a typical mediation session, the mediator introduces the parties, outlines the procedure, and invites agreement based on specified ground rules. After a confidentiality agreement is signed by the parties, the mediator listens to the presentations from each party. This is usually followed by private meetings between the mediator and each party.

In the private meetings, or caucuses, the respective parties share confidential information with the mediator that they may not want disclosed to the other party. The caucus also gives the mediator the opportunity to discuss privately with the respective parties what the mediator sees as the hurdles, weaknesses, or problems. The confidential sessions provide an opportunity for the creativity and the anonymity that may be necessary to resolve some disputes.

The mediator helps the parties see and appreciate the other points of view and develop options for settling the dispute. In a high percentage of cases, the mediator is able to structure an agreement the parties are comfortable with.

Currently, mediation is an optional service local boards of REALTORS® can offer their members. Given its speed, economy, and efficiency in resolving disputes, it's likely that more boards will begin to offer this service.

| Mediation v. Arbitration | |
|-----------------------------------|--------------------------------|
| <i>Low or no cost</i> | <i>Moderate Cost</i> |
| <i>Little delay</i> | <i>Moderate delay</i> |
| <i>Win/win</i> | <i>Win/lose/split</i> |
| <i>Collaborative</i> | <i>Adversarial</i> |
| <i>Maximum range of solutions</i> | <i>Result limited to money</i> |
| <i>Improves relationships</i> | <i>May damage relationship</i> |

Mediation VS. Arbitration

Differences in Participants

Differences in Possible Outcomes

Mediation won't work when:

- A precedent is needed.
- Vindication/punishment remains the main objective.
- The jackpot syndrome is involved.

NOTE: Both mediation and arbitration are confidential.

Part 6: Filing a Grievance

Ethics Complaint/Arbitration Request Checklist

- ❑ Contact the respondent's local board/association for the appropriate forms.
- ❑ **Ethics** — Complete the ethics complaint form and provide a written explanation that includes the facts on which the alleged violation(s) is based, cite the appropriate Article(s) and include any other appropriate documentation.
- ❑ **Arbitration** — Complete the arbitration request form, attach the details of the dispute, and enclose the appropriate deposit along with whatever documentation that may help to substantiate your position.
- ❑ The ethics complaint or arbitration request will then be sent to the Grievance Committee for review.
- ❑ The Grievance Committee may, if deemed appropriate, send a copy of the ethics complaint and/or arbitration request to the respondent for a written response.
- ❑ The Grievance Committee, which functions much like a grand jury, will then review the ethics complaint and/or arbitration request (and response, if any).
- ❑ If the Grievance Committee refers the ethics complaint or arbitration request for a hearing, the parties will be advised of the referral. The respondent will be requested to submit a written response if one has not already been filed.
- ❑ If the Grievance Committee determines that a hearing is *not warranted*, the parties will be advised that the matter has been dismissed and notified of the opportunity to appeal the Grievance Committee's dismissal to the Board of Directors.
- ❑ If the Grievance Committee determines that a hearing *is warranted*, the parties will be advised of the date, time, and place of the hearing subsequent to having an opportunity to challenge any of the hearing panelists for cause.
- ❑ During the hearing, the parties have an opportunity to present their positions. Parties may exercise their right to bring witnesses and/or attorneys to the hearing. The standard of proof in an *ethics* complaint is clear, strong, and convincing evidence. The standard of proof that must be observed to prevail in an *arbitration* proceeding is a preponderance of the evidence (i.e., that evidence, when taken as a whole, is more convincing than the evidence offered in opposition).
- ❑ The Hearing Panel's ethics decision or arbitration award is transmitted to the parties. Either party may file an *ethics* appeal or rehearing request with the President, but the complainant may only appeal on a procedural basis. The parties involved in arbitration may appeal only on the basis that there was a procedural irregularity that materially worked to their detriment.
- ❑ The Board of Directors, either on an ethics appeal or after the ethics appeal period has expired, renders its final decision, which will in turn be transmitted to the parties. Arbitration awards are considered final and binding subsequent to the expiration of the procedural review period. For more information on Code of Ethics enforcement procedures or to review the complete *Code of Ethics and Arbitration Manual*, contact your local board staff.

[Source: NAR Code of Ethics Enforcement Brochure]

Part 7: What Does True Professionalism Look Like?

Pet peeves: What do other agents do that complicate your professional life?

1. When making appointments
2. When showing property
3. When making and presenting offers
4. Other interactions with agents
5. Other interactions with clients/customers

Flip side: Identify some best practices that you have witnessed from other agents?

APPENDIX 1: Pathways to Professionalism

While the Code of Ethics and Standards of Practice of the National Association establishes objective, enforceable ethical standards governing the professional conduct of REALTORS®, it does not address issues of courtesy or etiquette. These Professional courtesies are intended to be used by REALTORS® on a voluntary basis, and cannot form the basis for a professional standards complaint.

Respect for the Public

1. Follow the “Golden Rule” – Do unto others as you would have them do unto you.
2. Respond promptly to inquiries and requests for information.
3. Schedule appointments and showings as far in advance as possible.
4. Call if you are delayed or must cancel an appointment or showing.
5. If a prospective buyer decides not to view an occupied home, promptly explain the situation to the listing broker or the occupant.
6. Communicate with all parties in a timely fashion.
7. When entering a property, ensure that unexpected situations, such as pets, are handled appropriately.
8. Leave your business card if not prohibited by local rules.
9. Never criticize property in the presence of the occupant.
10. Inform occupants that you are leaving after showings.
11. 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.
12. Present a professional appearance at all times; dress appropriately and drive a clean car.
13. If occupants are home during showings, ask their permission before using the telephone or bathroom.
14. Encourage the clients of other brokers to direct questions to their agent or representative.
15. Communicate clearly; don’t use jargon or slang that may not be readily understood.
16. Be aware of and respect cultural differences.
17. Show courtesy and respect to everyone.
18. Be aware of – and meet – all deadlines.
19. Promise only what you can deliver – and keep your promises.
20. Identify your REALTOR® and your professional status in contacts with the public.
21. Do not tell people what you think – tell them what you know.

Respect for Property

1. Be responsible for everyone you allow to enter listed property.
2. Never allow buyers to enter listed property unaccompanied.
3. When showing property, keep all members of the group together.
4. Never allow unaccompanied access to property without permission.
5. Enter property only with permission even if you have a lockbox key or combination.
6. 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.
7. 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.
8. Use sidewalks; if weather is bad, take off shoes and boots inside property.
9. Respect sellers' instructions about photographing or videographing their properties'.

Respect for Peers

1. Identify your REALTOR® and professional status in all contacts with other REALTORS®.
2. Respond to other agents' calls, faxes, and e-mails promptly and courteously.
3. Be aware that large electronic files with attachments or lengthy faxes may be a burden on recipients.
4. Notify the listing broker if there appears to be inaccurate information on the listing.
5. Share important information about a property, including the presence of pets; security systems; and whether sellers will be present during the showing.
6. Show courtesy, trust and respect to other real estate professionals.
7. Avoid the inappropriate use of endearments or other denigrating language.
8. Do not prospect at other REALTORS®' open houses or similar events.
9. Return keys promptly.
10. Carefully replace keys in the lockbox after showings.
11. To be successful in the business, mutual respect is essential.
12. Real estate is a reputation business. What you do today may affect your reputation – and business – for years to come.

[Source: NAR, 11/13]

APPENDIX 2: Case Studies

RESPONDENTS REPORT A MODERATE OR HIGHER NEED FOR TRAINING ABOUT ETHICS.

Ethics topics are not a significant source of current disputes and a vast majority, more than 81%, of the survey respondents do not anticipate an increase in the level of disputes over the next two years. Only about 24% of the survey respondents believe there is a significant need for training about ethics, but more than 66% believe there is a moderate or higher need for training. (See Table 14.)

TABLE 14
SIGNIFICANT TRAINING NEEDS—MAJOR TOPICS⁵

| Major Topic | % Indicating Significant Training Need | % Indicating Moderate/Higher Training Need | Average Value | Std. Dev. | No. Resp. |
|-------------------------------|--|--|---------------|-----------|-----------|
| Technology | 54.47% | 86.06% | 2.41 | 0.72 | 459 |
| Third-party Liability | [35.68%] | 77.09% | 2.13 | 0.77 | 227 |
| RESPA | [35.57%] | 72.30% | 2.08 | 0.79 | 343 |
| Property Condition Disclosure | [23.06%] | 65.01% | 1.88 | 0.75 | 1006 |
| Ethics | [23.85%] | 66.51% | 1.90 | 0.75 | 218 |

| | | | | | |
|----------------------|----------|----------|------|------|------|
| Agency | [21.71%] | 58.82% | 1.81 | 0.77 | 1253 |
| Affinity Groups | [21.62%] | 70.27% | 1.92 | 0.72 | 111 |
| Employment | [16.68%] | 53.56% | 1.70 | 0.73 | 911 |
| Fair Housing | [14.40%] | 55.54% | 1.70 | 0.71 | 1021 |
| Relocation Companies | [13.89%] | 55.56% | 1.69 | 0.70 | 108 |
| Antitrust | [13.59%] | [49.89%] | 1.63 | 0.71 | 449 |
| ADA | [5.80%] | [40.62%] | 1.46 | 0.60 | 224 |

APPENDIX 3: “*Violation or Not a Violation*”

1. You are on your way to a concert when you get a call that an offer on one of your listings is at your office. The offer expires in 36 hours. You decide to wait until morning to pick up the offer and present it to the sellers.

☒ Violation Standard of Practice 1.6
☐ Not a violation

2. Since the house is a vacant foreclosure, you comply with your buyer’s wish that you leave the back door open so that your buyer can bring his parents by later the same afternoon. You check the house later that afternoon to make sure that it is secure.

☒ Violation Article 1, Standard of Practice 3.9
☐ Not a violation

3. Your client, the attorney, says that she thinks the list price should be \$330,000. Based on your research, you feel that the property is worth more like \$350,000. She’s the boss so you say nothing.

☒ Violation Standard of Practice 1.3
☐ Not a violation

4. Late one night, you meet your clients in a parking lot so that they can sign documents to complete the transaction. You tell them that you will get copies to them sometime tomorrow. They say, “OK.”

☒ Violation Article 9
☐ Not a violation

5. Your Bosnian customers say that they would really like to live close to other Bosnians. You decide to put them in touch with a Bosnian friend so that they can discuss neighborhoods.

☐ Violation Article 10
☒ Not a violation

6. You are contacted to list a complex commercial property. You keep your lack of experience to yourself and respond to the seller that you will gladly take the listing.

☒ Violation Article 11
☐ Not a violation

Code of Ethics and Standards of Practice

of the NATIONAL ASSOCIATION OF REALTORS®

Effective January 1, 2017

Where the word REALTORS® is used in this Code and Preamble, it shall be deemed to include REALTOR-ASSOCIATE®s.

While the Code of Ethics establishes obligations that may be higher than those mandated by law, in any instance where the Code of Ethics and the law conflict, the obligations of the law must take precedence.

Preamble

Under all is the land. Upon its wise utilization and widely allocated ownership depend the survival and growth of free institutions and of our civilization. REALTORS® should recognize that the interests of the nation and its citizens require the highest and best use of the land and the widest distribution of land ownership. They require the creation of adequate housing, the building of functioning cities, the development of productive industries and farms, and the preservation of a healthful environment.

Such interests impose obligations beyond those of ordinary commerce. They impose grave social responsibility and a patriotic duty to which REALTORS® should dedicate themselves, and for which they should be diligent in preparing themselves. REALTORS®, therefore, are zealous to maintain and improve the standards of their calling and share with their fellow REALTORS® a common responsibility for its integrity and honor.

In recognition and appreciation of their obligations to clients, customers, the public, and each other, REALTORS® continuously strive to become and remain informed on issues affecting real estate and, as knowledgeable professionals, they willingly share the fruit of their experience and study with others. They identify and take steps, through enforcement of this Code of Ethics and by assisting appropriate regulatory bodies, to eliminate practices which may damage the public or which might discredit or bring dishonor to the real estate profession. REALTORS® having direct personal knowledge of conduct that may violate the Code of Ethics involving misappropriation of client or customer funds or property, willful discrimination, or fraud resulting in substantial economic harm, bring such matters to the attention of the appropriate Board or Association of REALTORS®. (Amended 1/00)

Realizing that cooperation with other real estate professionals promotes the best interests of those who utilize their services, REALTORS® urge exclusive representation of clients; do not attempt to gain any unfair advantage over their competitors; and they refrain from making unsolicited comments about other practitioners. In instances where their opinion is sought, or where REALTORS® believe that comment is necessary, their opinion is offered in an objective, professional manner, uninfluenced by any personal motivation or potential advantage or gain.

The term REALTOR® has come to connote competency, fairness, and high integrity resulting from adherence to a lofty ideal of moral conduct in business relations. No inducement of profit and no instruction from clients ever can justify departure from this ideal.

In the interpretation of this obligation, REALTORS® can take no safer guide than that which has been handed down through the centuries, embodied in the Golden Rule, "Whatsoever ye would that others should do to you, do ye even so to them."

Accepting this standard as their own, REALTORS® pledge to observe its spirit in all of their activities whether conducted personally, through associates or others, or via technological means, and to conduct their business in accordance with the tenets set forth below. (Amended 1/07)

Duties to Clients and Customers

Article 1

When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly. (Amended 1/01)

• Standard of Practice 1-1

REALTORS®, when acting as principals in a real estate transaction, remain obligated by the duties imposed by the Code of Ethics. (Amended 1/93)

• Standard of Practice 1-2

The duties imposed by the Code of Ethics encompass all real estate-related activities and transactions whether conducted in person, electronically, or through any other means.

The duties the Code of Ethics imposes are applicable whether REALTORS® are acting as agents or in legally recognized non-agency capacities except that any duty imposed exclusively on agents by law or regulation shall not be imposed by this Code of Ethics on REALTORS® acting in non-agency capacities.

As used in this Code of Ethics, "client" means the person(s) or entity(ies) with whom a REALTOR® or a REALTOR®'s firm has an agency or legally recognized non-agency relationship; "customer" means a party to a real estate transaction who receives information, services, or benefits but has no contractual relationship with the REALTOR® or the REALTOR®'s firm; "prospect" means a purchaser, seller, tenant, or landlord who is not subject to a representation relationship with the REALTOR® or REALTOR®'s firm; "agent" means a real estate licensee (including brokers and sales associates) acting in an agency relationship as defined by state law or regulation; and "broker" means a real estate licensee (including brokers and sales associates) acting as an agent or in a legally recognized non-agency capacity. (Adopted 1/95, Amended 1/07)

• Standard of Practice 1-3

REALTORS®, in attempting to secure a listing, shall not deliberately mislead the owner as to market value.

• Standard of Practice 1-4

REALTORS®, when seeking to become a buyer/tenant representative, shall not mislead buyers or tenants as to savings or other benefits that might be realized through use of the REALTOR®'s services. (Amended 1/93)

• Standard of Practice 1-5

REALTORS® may represent the seller/landlord and buyer/tenant in the

same transaction only after full disclosure to and with informed consent of both parties. *(Adopted 1/93)*

• **Standard of Practice 1-6**

REALTORS® shall submit offers and counter-offers objectively and as quickly as possible. *(Adopted 1/93, Amended 1/95)*

• **Standard of Practice 1-7**

When acting as listing brokers, REALTORS® shall continue to submit to the seller/landlord all offers and counter-offers until closing or execution of a lease unless the seller/landlord has waived this obligation in writing. REALTORS® shall not be obligated to continue to market the property after an offer has been accepted by the seller/landlord. REALTORS® shall recommend that sellers/landlords obtain the advice of legal counsel prior to acceptance of a subsequent offer except where the acceptance is contingent on the termination of the pre-existing purchase contract or lease. *(Amended 1/93)*

• **Standard of Practice 1-8**

REALTORS®, acting as agents or brokers of buyers/tenants, shall submit to buyers/tenants all offers and counter-offers until acceptance but have no obligation to continue to show properties to their clients after an offer has been accepted unless otherwise agreed in writing. REALTORS®, acting as agents or brokers of buyers/tenants, shall recommend that buyers/tenants obtain the advice of legal counsel if there is a question as to whether a pre-existing contract has been terminated. *(Adopted 1/93, Amended 1/99)*

• **Standard of Practice 1-9**

The obligation of REALTORS® to preserve confidential information (as defined by state law) provided by their clients in the course of any agency relationship or non-agency relationship recognized by law continues after termination of agency relationships or any non-agency relationships recognized by law. REALTORS® shall not knowingly, during or following the termination of professional relationships with their clients:

- 1) reveal confidential information of clients; or
- 2) use confidential information of clients to the disadvantage of clients; or
- 3) use confidential information of clients for the REALTOR®'s advantage or the advantage of third parties unless:
 - a) clients consent after full disclosure; or
 - b) REALTORS® are required by court order; or
 - c) it is the intention of a client to commit a crime and the information is necessary to prevent the crime; or
 - d) it is necessary to defend a REALTOR® or the REALTOR®'s employees or associates against an accusation of wrongful conduct.

Information concerning latent material defects is not considered confidential information under this Code of Ethics. *(Adopted 1/93, Amended 1/01)*

• **Standard of Practice 1-10**

REALTORS® shall, consistent with the terms and conditions of their real estate licensure and their property management agreement, competently manage the property of clients with due regard for the rights, safety and health of tenants and others lawfully on the premises. *(Adopted 1/95, Amended 1/00)*

• **Standard of Practice 1-11**

REALTORS® who are employed to maintain or manage a client's property shall exercise due diligence and make reasonable efforts to protect it against reasonably foreseeable contingencies and losses. *(Adopted 1/95)*

• **Standard of Practice 1-12**

When entering into listing contracts, REALTORS® must advise sellers/landlords of:

- 1) the REALTOR®'s company policies regarding cooperation and the amount(s) of any compensation that will be offered to subagents, buyer/tenant agents, and/or brokers acting in legally recognized non-agency capacities;

- 2) the fact that buyer/tenant agents or brokers, even if compensated by listing brokers, or by sellers/landlords may represent the interests of buyers/tenants; and
- 3) any potential for listing brokers to act as disclosed dual agents, e.g., buyer/tenant agents. *(Adopted 1/93, Renumbered 1/98, Amended 1/03)*

• **Standard of Practice 1-13**

When entering into buyer/tenant agreements, REALTORS® must advise potential clients of:

- 1) the REALTOR®'s company policies regarding cooperation;
- 2) the amount of compensation to be paid by the client;
- 3) the potential for additional or offsetting compensation from other brokers, from the seller or landlord, or from other parties;
- 4) any potential for the buyer/tenant representative to act as a disclosed dual agent, e.g., listing broker, subagent, landlord's agent, etc., and
- 5) the possibility that sellers or sellers' representatives may not treat the existence, terms, or conditions of offers as confidential unless confidentiality is required by law, regulation, or by any confidentiality agreement between the parties. *(Adopted 1/93, Renumbered 1/98, Amended 1/06)*

• **Standard of Practice 1-14**

Fees for preparing appraisals or other valuations shall not be contingent upon the amount of the appraisal or valuation. *(Adopted 1/02)*

• **Standard of Practice 1-15**

REALTORS®, in response to inquiries from buyers or cooperating brokers shall, with the sellers' approval, disclose the existence of offers on the property. Where disclosure is authorized, REALTORS® shall also disclose, if asked, whether offers were obtained by the listing licensee, another licensee in the listing firm, or by a cooperating broker. *(Adopted 1/03, Amended 1/09)*

• **Standard of Practice 1-16**

REALTORS® shall not access or use, or permit or enable others to access or use, listed or managed property on terms or conditions other than those authorized by the owner or seller. *(Adopted 1/12)*

Article 2

REALTORS® shall avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to the property or the transaction. REALTORS® shall not, however, be obligated to discover latent defects in the property, to advise on matters outside the scope of their real estate license, or to disclose facts which are confidential under the scope of agency or non-agency relationships as defined by state law. *(Amended 1/00)*

• **Standard of Practice 2-1**

REALTORS® shall only be obligated to discover and disclose adverse factors reasonably apparent to someone with expertise in those areas required by their real estate licensing authority. Article 2 does not impose upon the REALTOR® the obligation of expertise in other professional or technical disciplines. *(Amended 1/96)*

• **Standard of Practice 2-2**

(Renumbered as Standard of Practice 1-12 1/98)

• **Standard of Practice 2-3**

(Renumbered as Standard of Practice 1-13 1/98)

• **Standard of Practice 2-4**

REALTORS® shall not be parties to the naming of a false consideration in any document, unless it be the naming of an obviously nominal consideration.

• **Standard of Practice 2-5**

Factors defined as "non-material" by law or regulation or which are expressly referenced in law or regulation as not being subject to disclosure are considered not "pertinent" for purposes of Article 2. *(Adopted 1/93)*

Article 3

REALTORS® shall cooperate with other brokers except when cooperation is not in the client's best interest. The obligation to cooperate does not include the obligation to share commissions, fees, or to otherwise compensate another broker. *(Amended 1/95)*

• Standard of Practice 3-1

REALTORS®, acting as exclusive agents or brokers of sellers/ landlords, establish the terms and conditions of offers to cooperate. Unless expressly indicated in offers to cooperate, cooperating brokers may not assume that the offer of cooperation includes an offer of compensation. Terms of compensation, if any, shall be ascertained by cooperating brokers before beginning efforts to accept the offer of cooperation. *(Amended 1/99)*

• Standard of Practice 3-2

Any change in compensation offered for cooperative services must be communicated to the other REALTOR® prior to the time that REALTOR® submits an offer to purchase/lease the property. After a REALTOR® has submitted an offer to purchase or lease property, the listing broker may not attempt to unilaterally modify the offered compensation with respect to that cooperative transaction. *(Amended 1/14)*

• Standard of Practice 3-3

Standard of Practice 3-2 does not preclude the listing broker and cooperating broker from entering into an agreement to change cooperative compensation. *(Adopted 1/94)*

• Standard of Practice 3-4

REALTORS®, acting as listing brokers, have an affirmative obligation to disclose the existence of dual or variable rate commission arrangements (i.e., listings where one amount of commission is payable if the listing broker's firm is the procuring cause of sale/lease and a different amount of commission is payable if the sale/lease results through the efforts of the seller/landlord or a cooperating broker). The listing broker shall, as soon as practical, disclose the existence of such arrangements to potential cooperating brokers and shall, in response to inquiries from cooperating brokers, disclose the differential that would result in a cooperative transaction or in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease. *(Amended 1/02)*

• Standard of Practice 3-5

It is the obligation of subagents to promptly disclose all pertinent facts to the principal's agent prior to as well as after a purchase or lease agreement is executed. *(Amended 1/93)*

• Standard of Practice 3-6

REALTORS® shall disclose the existence of accepted offers, including offers with unresolved contingencies, to any broker seeking cooperation. *(Adopted 5/86, Amended 1/04)*

• Standard of Practice 3-7

When seeking information from another REALTOR® concerning property under a management or listing agreement, REALTORS® shall disclose their REALTOR® status and whether their interest is personal or on behalf of a client and, if on behalf of a client, their relationship with the client. *(Amended 1/11)*

• Standard of Practice 3-8

REALTORS® shall not misrepresent the availability of access to show or inspect a listed property. *(Amended 11/87)*

• Standard of Practice 3-9

REALTORS® shall not provide access to listed property on terms

other than those established by the owner or the listing broker. *(Adopted 1/10)*

• Standard of Practice 3-10

The duty to cooperate established in Article 3 relates to the obligation to share information on listed property, and to make property available to other brokers for showing to prospective purchasers/tenants when it is in the best interests of sellers/landlords. *(Adopted 1/11)*

Article 4

REALTORS® shall not acquire an interest in or buy or present offers from themselves, any member of their immediate families, their firms or any member thereof, or any entities in which they have any ownership interest, any real property without making their true position known to the owner or the owner's agent or broker. In selling property they own, or in which they have any interest, REALTORS® shall reveal their ownership or interest in writing to the purchaser or the purchaser's representative. *(Amended 1/00)*

• Standard of Practice 4-1

For the protection of all parties, the disclosures required by Article 4 shall be in writing and provided by REALTORS® prior to the signing of any contract. *(Adopted 2/86)*

Article 5

REALTORS® shall not undertake to provide professional services concerning a property or its value where they have a present or contemplated interest unless such interest is specifically disclosed to all affected parties.

Article 6

REALTORS® shall not accept any commission, rebate, or profit on expenditures made for their client, without the client's knowledge and consent.

When recommending real estate products or services (e.g., homeowner's insurance, warranty programs, mortgage financing, title insurance, etc.), REALTORS® shall disclose to the client or customer to whom the recommendation is made any financial benefits or fees, other than real estate referral fees, the REALTOR® or REALTOR's firm may receive as a direct result of such recommendation. *(Amended 1/99)*

• Standard of Practice 6-1

REALTORS® shall not recommend or suggest to a client or a customer the use of services of another organization or business entity in which they have a direct interest without disclosing such interest at the time of the recommendation or suggestion. *(Amended 5/88)*

Article 7

In a transaction, REALTORS® shall not accept compensation from more than one party, even if permitted by law, without disclosure to all parties and the informed consent of the REALTOR's client or clients. *(Amended 1/93)*

Article 8

REALTORS® shall keep in a special account in an appropriate financial institution, separated from their own funds, monies coming into their possession in trust for other persons, such as escrows, trust funds, clients' monies, and other like items.

Article 9

REALTORS®, for the protection of all parties, shall assure whenever possible that all agreements related to real estate transactions including, but not limited to, listing and representation agreements, purchase contracts, and leases are in writing in clear and understandable language expressing the specific terms, conditions, obligations and commitments of the parties. A copy of each agreement shall be furnished to each party to such agreements upon their signing or initialing. *(Amended 1/04)*

- **Standard of Practice 9-1**

For the protection of all parties, REALTORS® shall use reasonable care to ensure that documents pertaining to the purchase, sale, or lease of real estate are kept current through the use of written extensions or amendments. *(Amended 1/93)*

- **Standard of Practice 9-2**

When assisting or enabling a client or customer in establishing a contractual relationship (e.g., listing and representation agreements, purchase agreements, leases, etc.) electronically, REALTORS® shall make reasonable efforts to explain the nature and disclose the specific terms of the contractual relationship being established prior to it being agreed to by a contracting party. *(Adopted 1/07)*

Duties to the Public

Article 10

REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. *(Amended 1/14)*

REALTORS®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. *(Amended 1/14)*

- **Standard of Practice 10-1**

When involved in the sale or lease of a residence, REALTORS® shall not volunteer information regarding the racial, religious or ethnic composition of any neighborhood nor shall they engage in any activity which may result in panic selling, however, REALTORS® may provide other demographic information. *(Adopted 1/94, Amended 1/06)*

- **Standard of Practice 10-2**

When not involved in the sale or lease of a residence, REALTORS® may provide demographic information related to a property, transaction or professional assignment to a party if such demographic information is (a) deemed by the REALTOR® to be needed to assist with or complete, in a manner consistent with Article 10, a real estate transaction or professional assignment and (b) is obtained or derived from a recognized, reliable, independent, and impartial source. The source of such information and any additions, deletions, modifications, interpretations, or other changes shall be disclosed in reasonable detail. *(Adopted 1/05, Renumbered 1/06)*

- **Standard of Practice 10-3**

REALTORS® shall not print, display or circulate any statement or advertisement with respect to selling or renting of a property that indicates any preference, limitations or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. *(Adopted 1/94, Renumbered 1/05 and 1/06, Amended 1/14)*

- **Standard of Practice 10-4**

As used in Article 10 “real estate employment practices” relates to employees and independent contractors providing real estate-related services and the administrative and clerical staff directly supporting those individuals. *(Adopted 1/00, Renumbered 1/05 and 1/06)*

Article 11

The services which REALTORS® provide to their clients and customers shall conform to the standards of practice and competence which are

reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, land brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

REALTORS® shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth. *(Amended 1/10)*

- **Standard of Practice 11-1**

When REALTORS® prepare opinions of real property value or price they must:

- 1) be knowledgeable about the type of property being valued,
- 2) have access to the information and resources necessary to formulate an accurate opinion, and
- 3) be familiar with the area where the subject property is located

unless lack of any of these is disclosed to the party requesting the opinion in advance.

When an opinion of value or price is prepared other than in pursuit of a listing or to assist a potential purchaser in formulating a purchase offer, the opinion shall include the following unless the party requesting the opinion requires a specific type of report or different data set:

- 1) identification of the subject property
 - 2) date prepared
 - 3) defined value or price
 - 4) limiting conditions, including statements of purpose(s) and intended user(s)
 - 5) any present or contemplated interest, including the possibility of representing the seller/landlord or buyers/tenants
 - 6) basis for the opinion, including applicable market data
 - 7) if the opinion is not an appraisal, a statement to that effect
 - 8) disclosure of whether and when a physical inspection of the property's exterior was conducted
 - 9) disclosure of whether and when a physical inspection of the property's interior was conducted
 - 10) disclosure of whether the REALTOR® has any conflicts of interest
- (Amended 1/14)*

- **Standard of Practice 11-2**

The obligations of the Code of Ethics in respect of real estate disciplines other than appraisal shall be interpreted and applied in accordance with the standards of competence and practice which clients and the public reasonably require to protect their rights and interests considering the complexity of the transaction, the availability of expert assistance, and, where the REALTOR® is an agent or subagent, the obligations of a fiduciary. *(Adopted 1/95)*

- **Standard of Practice 11-3**

When REALTORS® provide consultative services to clients which involve advice or counsel for a fee (not a commission), such advice shall be rendered in an objective manner and the fee shall not be contingent on the substance of the advice or counsel given. If brokerage or transaction services are to be provided in addition to consultative services, a separate compensation may be paid with prior agreement between the client and REALTOR®. *(Adopted 1/96)*

- **Standard of Practice 11-4**

The competency required by Article 11 relates to services contracted for between REALTORS® and their clients or customers; the duties expressly

imposed by the Code of Ethics; and the duties imposed by law or regulation. *(Adopted 1/02)*

Article 12

REALTORS® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations. REALTORS® shall ensure that their status as real estate professionals is readily apparent in their advertising, marketing, and other representations, and that the recipients of all real estate communications are, or have been, notified that those communications are from a real estate professional. *(Amended 1/08)*

• Standard of Practice 12-1

REALTORS® may use the term “free” and similar terms in their advertising and in other representations provided that all terms governing availability of the offered product or service are clearly disclosed at the same time. *(Amended 1/97)*

• Standard of Practice 12-2

REALTORS® may represent their services as “free” or without cost even if they expect to receive compensation from a source other than their client provided that the potential for the REALTOR® to obtain a benefit from a third party is clearly disclosed at the same time. *(Amended 1/97)*

• Standard of Practice 12-3

The offering of premiums, prizes, merchandise discounts or other inducements to list, sell, purchase, or lease is not, in itself, unethical even if receipt of the benefit is contingent on listing, selling, purchasing, or leasing through the REALTOR® making the offer. However, REALTORS® must exercise care and candor in any such advertising or other public or private representations so that any party interested in receiving or otherwise benefiting from the REALTOR®’s offer will have clear, thorough, advance understanding of all the terms and conditions of the offer. The offering of any inducements to do business is subject to the limitations and restrictions of state law and the ethical obligations established by any applicable Standard of Practice. *(Amended 1/95)*

• Standard of Practice 12-4

REALTORS® shall not offer for sale/lease or advertise property without authority. When acting as listing brokers or as subagents, REALTORS® shall not quote a price different from that agreed upon with the seller/landlord. *(Amended 1/93)*

• Standard of Practice 12-5

REALTORS® shall not advertise nor permit any person employed by or affiliated with them to advertise real estate services or listed property in any medium (e.g., electronically, print, radio, television, etc.) without disclosing the name of that REALTOR®’s firm in a reasonable and readily apparent manner either in the advertisement or in electronic advertising via a link to a display with all required disclosures. *(Adopted 11/86, Amended 1/16)*

• Standard of Practice 12-6

REALTORS®, when advertising unlisted real property for sale/lease in which they have an ownership interest, shall disclose their status as both owners/landlords and as REALTORS® or real estate licensees. *(Amended 1/93)*

• Standard of Practice 12-7

Only REALTORS® who participated in the transaction as the listing broker or cooperating broker (selling broker) may claim to have “sold” the property. Prior to closing, a cooperating broker may post a “sold” sign only with the consent of the listing broker. *(Amended 1/96)*

• Standard of Practice 12-8

The obligation to present a true picture in representations to the public includes information presented, provided, or displayed on REALTORS®’ websites. REALTORS® shall use reasonable efforts to ensure that information on their websites is current. When it becomes apparent that information on a REALTOR®’s website is no longer current or accurate, REALTORS® shall promptly take corrective action. *(Adopted 1/07)*

• Standard of Practice 12-9

REALTOR® firm websites shall disclose the firm’s name and state(s) of licensure in a reasonable and readily apparent manner.

Websites of REALTORS® and non-member licensees affiliated with a REALTOR® firm shall disclose the firm’s name and that REALTOR®’s or non-member licensee’s state(s) of licensure in a reasonable and readily apparent manner. *(Adopted 1/07)*

• Standard of Practice 12-10

REALTORS®’ obligation to present a true picture in their advertising and representations to the public includes Internet content posted, and the URLs and domain names they use, and prohibits REALTORS® from:

- 1) engaging in deceptive or unauthorized framing of real estate brokerage websites;
- 2) manipulating (e.g., presenting content developed by others) listing and other content in any way that produces a deceptive or misleading result;
- 3) deceptively using metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic; or
- 4) presenting content developed by others without either attribution or without permission, or
- 5) to otherwise mislead consumers. *(Adopted 1/07, Amended 1/13)*

• Standard of Practice 12-11

REALTORS® intending to share or sell consumer information gathered via the Internet shall disclose that possibility in a reasonable and readily apparent manner. *(Adopted 1/07)*

• Standard of Practice 12-12

REALTORS® shall not:

- 1) use URLs or domain names that present less than a true picture, or
- 2) register URLs or domain names which, if used, would present less than a true picture. *(Adopted 1/08)*

• Standard of Practice 12-13

The obligation to present a true picture in advertising, marketing, and representations allows REALTORS® to use and display only professional designations, certifications, and other credentials to which they are legitimately entitled. *(Adopted 1/08)*

Article 13

REALTORS® shall not engage in activities that constitute the unauthorized practice of law and shall recommend that legal counsel be obtained when the interest of any party to the transaction requires it.

Article 14

If charged with unethical practice or asked to present evidence or to cooperate in any other way, in any professional standards proceeding or investigation, REALTORS® shall place all pertinent facts before the proper tribunals of the Member Board or affiliated institute, society, or council in which membership is held and shall take no action to disrupt or obstruct such processes. *(Amended 1/99)*

- **Standard of Practice 14-1**

REALTORS® shall not be subject to disciplinary proceedings in more than one Board of REALTORS® or affiliated institute, society, or council in which they hold membership with respect to alleged violations of the Code of Ethics relating to the same transaction or event. *(Amended 1/95)*

- **Standard of Practice 14-2**

REALTORS® shall not make any unauthorized disclosure or dissemination of the allegations, findings, or decision developed in connection with an ethics hearing or appeal or in connection with an arbitration hearing or procedural review. *(Amended 1/92)*

- **Standard of Practice 14-3**

REALTORS® shall not obstruct the Board's investigative or professional standards proceedings by instituting or threatening to institute actions for libel, slander, or defamation against any party to a professional standards proceeding or their witnesses based on the filing of an arbitration request, an ethics complaint, or testimony given before any tribunal. *(Adopted 11/87, Amended 1/99)*

- **Standard of Practice 14-4**

REALTORS® shall not intentionally impede the Board's investigative or disciplinary proceedings by filing multiple ethics complaints based on the same event or transaction. *(Adopted 11/88)*

Duties to REALTORS®

Article 15

REALTORS® shall not knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices. *(Amended 1/12)*

- **Standard of Practice 15-1**

REALTORS® shall not knowingly or recklessly file false or unfounded ethics complaints. *(Adopted 1/00)*

- **Standard of Practice 15-2**

The obligation to refrain from making false or misleading statements about other real estate professionals, their businesses, and their business practices includes the duty to not knowingly or recklessly publish, repeat, retransmit, or republish false or misleading statements made by others. This duty applies whether false or misleading statements are repeated in person, in writing, by technological means (e.g., the Internet), or by any other means. *(Adopted 1/07, Amended 1/12)*

- **Standard of Practice 15-3**

The obligation to refrain from making false or misleading statements about other real estate professionals, their businesses, and their business practices includes the duty to publish a clarification about or to remove statements made by others on electronic media the REALTOR® controls once the REALTOR® knows the statement is false or misleading. *(Adopted 1/10, Amended 1/12)*

Article 16

REALTORS® shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other REALTORS® have with clients. *(Amended 1/04)*

- **Standard of Practice 16-1**

Article 16 is not intended to prohibit aggressive or innovative business practices which are otherwise ethical and does not prohibit disagreements with other REALTORS® involving commission, fees,

compensation or other forms of payment or expenses. *(Adopted 1/93, Amended 1/95)*

- **Standard of Practice 16-2**

Article 16 does not preclude REALTORS® from making general announcements to prospects describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another REALTOR®. A general telephone canvass, general mailing or distribution addressed to all prospects in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed "general" for purposes of this standard. *(Amended 1/04)*

Article 16 is intended to recognize as unethical two basic types of solicitations:

First, telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, or other information service as having exclusively listed their property with another REALTOR® and

Second, mail or other forms of written solicitations of prospects whose properties are exclusively listed with another REALTOR® when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, "for sale" or "for rent" signs, or other sources of information required by Article 3 and Multiple Listing Service rules to be made available to other REALTORS® under offers of subagency or cooperation. *(Amended 1/04)*

- **Standard of Practice 16-3**

Article 16 does not preclude REALTORS® from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage) or from offering the same type of service for property not subject to other brokers' exclusive agreements. However, information received through a Multiple Listing Service or any other offer of cooperation may not be used to target clients of other REALTORS® to whom such offers to provide services may be made. *(Amended 1/04)*

- **Standard of Practice 16-4**

REALTORS® shall not solicit a listing which is currently listed exclusively with another broker. However, if the listing broker, when asked by the REALTOR®, refuses to disclose the expiration date and nature of such listing, i.e., an exclusive right to sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client, the REALTOR® may contact the owner to secure such information and may discuss the terms upon which the REALTOR® might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing. *(Amended 1/94)*

- **Standard of Practice 16-5**

REALTORS® shall not solicit buyer/tenant agreements from buyers/tenants who are subject to exclusive buyer/tenant agreements. However, if asked by a REALTOR®, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the REALTOR® may contact the buyer/tenant to secure such information and may discuss the terms upon which the REALTOR® might enter into a future buyer/tenant agreement or, alternatively, may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement. *(Adopted 1/94, Amended 1/98)*

• **Standard of Practice 16-6**

When REALTORS® are contacted by the client of another REALTOR® regarding the creation of an exclusive relationship to provide the same type of service, and REALTORS® have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement. *(Amended 1/98)*

• **Standard of Practice 16-7**

The fact that a prospect has retained a REALTOR® as an exclusive representative or exclusive broker in one or more past transactions does not preclude other REALTORS® from seeking such prospect's future business. *(Amended 1/04)*

• **Standard of Practice 16-8**

The fact that an exclusive agreement has been entered into with a REALTOR® shall not preclude or inhibit any other REALTOR® from entering into a similar agreement after the expiration of the prior agreement. *(Amended 1/98)*

• **Standard of Practice 16-9**

REALTORS®, prior to entering into a representation agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current, valid exclusive agreement to provide the same type of real estate service. *(Amended 1/04)*

• **Standard of Practice 16-10**

REALTORS®, acting as buyer or tenant representatives or brokers, shall disclose that relationship to the seller/landlord's representative or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord's representative or broker not later than execution of a purchase agreement or lease. *(Amended 1/04)*

• **Standard of Practice 16-11**

On unlisted property, REALTORS® acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. *(Amended 1/04)*

REALTORS® shall make any request for anticipated compensation from the seller/landlord at first contact. *(Amended 1/98)*

• **Standard of Practice 16-12**

REALTORS®, acting as representatives or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement. *(Amended 1/04)*

• **Standard of Practice 16-13**

All dealings concerning property exclusively listed, or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's representative or broker, and not with the client, except with the consent of the client's representative or broker or except where such dealings are initiated by the client.

Before providing substantive services (such as writing a purchase offer or presenting a CMA) to prospects, REALTORS® shall ask prospects whether they are a party to any exclusive representation agreement. REALTORS® shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospects' exclusive representatives or at the direction of prospects. *(Adopted 1/93, Amended 1/04)*

• **Standard of Practice 16-14**

REALTORS® are free to enter into contractual relationships or to negotiate with sellers/landlords, buyers/tenants or others who are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent. *(Amended 1/98)*

• **Standard of Practice 16-15**

In cooperative transactions REALTORS® shall compensate cooperating REALTORS® (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other REALTORS® without the prior express knowledge and consent of the cooperating broker.

• **Standard of Practice 16-16**

REALTORS®, acting as subagents or buyer/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer/tenant representatives or brokers nor make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation. *(Amended 1/04)*

• **Standard of Practice 16-17**

REALTORS®, acting as subagents or as buyer/tenant representatives or brokers, shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker. *(Amended 1/04)*

• **Standard of Practice 16-18**

REALTORS® shall not use information obtained from listing brokers through offers to cooperate made through multiple listing services or through other offers of cooperation to refer listing brokers' clients to other brokers or to create buyer/tenant relationships with listing brokers' clients, unless such use is authorized by listing brokers. *(Amended 1/02)*

• **Standard of Practice 16-19**

Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/landlord. *(Amended 1/93)*

• **Standard of Practice 16-20**

REALTORS®, prior to or after their relationship with their current firm is terminated, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude REALTORS® (principals) from establishing agreements with their associated licensees governing assignability of exclusive agreements. *(Adopted 1/98, Amended 1/10)*

Article 17

In the event of 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®, the REALTORS® shall mediate the dispute if the Board requires its members to mediate. If the dispute is not resolved through mediation, or if mediation is not required, REALTORS® shall submit the dispute to arbitration in accordance with the policies of the Board rather than litigate the matter.

In the event clients of REALTORS® wish to mediate or arbitrate contractual disputes arising out of real estate transactions, REALTORS® shall mediate or arbitrate those disputes in accordance with the policies of the Board, provided the clients agree to be bound by any resulting agreement or award.

The obligation to participate in mediation and arbitration contemplated by this Article includes the obligation of REALTORS® (principals) to cause their firms to mediate and arbitrate and be bound by any resulting agreement or award. *(Amended 1/12)*

• **Standard of Practice 17-1**

The filing of litigation and refusal to withdraw from it by REALTORS® in an arbitrable matter constitutes a refusal to arbitrate. (*Adopted 2/86*)

• **Standard of Practice 17-2**

Article 17 does not require REALTORS® to mediate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to mediate through the Board's facilities. The fact that all parties decline to participate in mediation does not relieve REALTORS® of the duty to arbitrate.

Article 17 does not require REALTORS® to arbitrate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to arbitrate before the Board. (*Amended 1/12*)

• **Standard of Practice 17-3**

REALTORS®, when acting solely as principals in a real estate transaction, are not obligated to arbitrate disputes with other REALTORS® absent a specific written agreement to the contrary. (*Adopted 1/96*)

• **Standard of Practice 17-4**

Specific non-contractual disputes that are subject to arbitration pursuant to Article 17 are:

- 1) Where a listing broker has compensated a cooperating broker and another cooperating broker subsequently claims to be the procuring cause of the sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. When arbitration occurs between two (or more) cooperating brokers and where the listing broker is not a party, the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the listing broker and any amount credited or paid to a party to the transaction at the direction of the respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (*Adopted 1/97, Amended 1/07*)
- 2) Where a buyer or tenant representative is compensated by the seller or landlord, and not by the listing broker, and the listing broker, as a result, reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. When arbitration occurs between two (or more) cooperating brokers and where the listing broker is not a party, the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the seller or landlord and any amount credited or paid to a party to the transaction at the direction of the respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (*Adopted 1/97, Amended 1/07*)

- 3) Where a buyer or tenant representative is compensated by the buyer or tenant and, as a result, the listing broker reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (*Adopted 1/97*)

- 4) Where two or more listing brokers claim entitlement to compensation pursuant to open listings with a seller or landlord who agrees to participate in arbitration (or who requests arbitration) and who agrees to be bound by the decision. In cases where one of the listing brokers has been compensated by the seller or landlord, the other listing broker, as complainant, may name the first listing broker as respondent and arbitration may proceed between the brokers. (*Adopted 1/97*)

- 5) Where a buyer or tenant representative is compensated by the seller or landlord, and not by the listing broker, and the listing broker, as a result, reduces the commission owed by the seller or landlord and, subsequent to such actions, claims to be the procuring cause of sale or lease. In such cases arbitration shall be between the listing broker and the buyer or tenant representative and the amount in dispute is limited to the amount of the reduction of commission to which the listing broker agreed. (*Adopted 1/05*)

• **Standard of Practice 17-5**

The obligation to arbitrate established in Article 17 includes disputes between REALTORS® (principals) in different states in instances where, absent an established inter-association arbitration agreement, the REALTOR® (principal) requesting arbitration agrees to submit to the jurisdiction of, travel to, participate in, and be bound by any resulting award rendered in arbitration conducted by the respondent(s) REALTOR®'s association, in instances where the respondent(s) REALTOR®'s association determines that an arbitrable issue exists. (*Adopted 1/07*)

Explanatory Notes

The reader should be aware of the following policies which have been approved by the Board of Directors of the National Association:

In filing a charge of an alleged violation of the Code of Ethics by a REALTOR®, the charge must read as an alleged violation of one or more Articles of the Code. Standards of Practice may be cited in support of the charge.

The Standards of Practice serve to clarify the ethical obligations imposed by the various Articles and supplement, and do not substitute for, the Case Interpretations in *Interpretations of the Code of Ethics*.

Modifications to existing Standards of Practice and additional new Standards of Practice are approved from time to time. Readers are cautioned to ensure that the most recent publications are utilized.