

Staying On The Right Path



*A course in North Carolina License Law and
the Realtor® Code of Ethics*

#3356

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Staying on the Right Path

All we want to do is sell, manage, or develop real estate. We want to do it right and will if we know where the path is.

Sure, it is easy to get off the right path and get lost. Once we realize we are lost, then we might be able to get back on the right path or we might need guidance. Sometimes someone else tells us we are lost. No one likes that feeling.

This course reminds us where the right path is. We look at North Carolina License Law and the Realtor® Code of Ethics. Are they so very different? Hardly. A few small differences here and there but if you can stay on the path of either, you are likely on the path of both.

Please ask what is on your mind and feel comfortable exploring what is right for you and your company.

This class satisfies your NC Real Estate continuing education elective plus your Realtor® Code of Ethics requirement.

The License Law and The Realtor® Code of Ethics (“the Code”)

Indicated whether you think True or False

- ___ 1. The License Law and the Code of Ethics are the same thing.
- ___ 2. If the Law and the Code conflict, you abide by the Law.
- ___ 3. You can be fined by both the Realtor® Association and the Real Estate Commission.
- ___ 4. It is OK to be a dual agent if you are the seller if all parties agree.
- ___ 5. It is up to your brokerage firm how to split commission on a cross sale.
- ___ 6. Handling multiple offers is addressed in the Code and in License Law.
- ___ 7. Handling client and customer money is addressed in both the Code and License Law.
- ___ 8. Calling other broker’s clients is a violation of license law.
- ___ 9. Calling other broker’s clients could be a violation of the Code.
- ___ 10. All licensees are Realtors®.
- ___ 11. The outcome of a Code hearing must be published.
- ___ 12. The outcome of a license law disciplinary action is public record.
- ___ 13. Real Estate Commission hearings are open to the public.
- ___ 14. Code of Ethics hearings are open to Realtors® only.
- ___ 15. NC License law requires 8 hours of continuing education every year.
- ___ 16. To remain a Realtor® the Realtor® must take Code education on a scheduled basis..
- ___ 17. All Realtors® are real estate licensees.
- ___ 18. The Code addresses sexual orientation.
- ___ 19. The Code and License Law address disclosure of agency.
- ___ 20. Certain Code violations must be reported to the Real Estate Commission.

§ 93A-6. Disciplinary action by Commission.

(a) The Commission has power to take disciplinary action. Upon its own initiative, or on the complaint of any person, the Commission may investigate the actions of any person or entity licensed under this Chapter, or any other person or entity who shall assume to act in such capacity. If the Commission finds probable cause that a licensee has violated any of the provisions of this Chapter, the Commission may hold a hearing on the allegations of misconduct.

The Commission has power to suspend or revoke at any time a license issued under the provisions of this Chapter, or to reprimand or censure any licensee, if, following a hearing, the Commission adjudges the licensee to be guilty of:

- (1) Making any willful or negligent misrepresentation or any willful or negligent omission of material fact.
- (2) Making any false promises of a character likely to influence, persuade, or induce.
- (3) Pursuing a course of misrepresentation or making of false promises through agents, advertising or otherwise.
- (4) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts.
- (5) Accepting a commission or valuable consideration as a real estate broker on provisional status for the performance of any of the acts specified in this Article or Article 4 of this Chapter, from any person except his or her broker-in-charge or licensed broker by whom he or she is employed.
- (6) Representing or attempting to represent a real estate broker other than the broker by whom he or she is engaged or associated, without the express knowledge and consent of the broker with whom he or she is associated.
- (7) Failing, within a reasonable time, to account for or to remit any monies coming into his or her possession which belong to others.
- (8) Being unworthy or incompetent to act as a real estate broker in a manner as to endanger the interest of the public.
- (9) Paying a commission or valuable consideration to any person for acts or services performed in violation of this Chapter.
- (10) Any other conduct which constitutes improper, fraudulent or dishonest dealing.
- (11) Performing or undertaking to perform any legal service, as set forth in G.S. 84-2.1, or any other acts constituting the practice of law.
- (12) Commingling the money or other property of his or her principals with his or her own or failure to maintain and deposit in a trust or escrow account in a bank as provided by subsection (g) of this section all money received by him or her as a real estate licensee acting in that capacity, or an escrow agent, or the custodian or manager of the funds of another person or entity which relate to or concern that person's or entity's interest or investment in real property, provided, these accounts shall not bear interest unless the principals authorize in writing the deposit be made in an interest bearing account and also provide for the disbursement of the interest accrued.
- (13) Failing to deliver, within a reasonable time, a completed copy of any purchase agreement or offer to buy and sell real estate to the buyer and to the seller.
- (14) Failing, at the time a sales transaction is consummated, to deliver to the broker's client a detailed and accurate closing statement showing the receipt and disbursement of all monies relating to the transaction about which the broker knows or reasonably should know. If a closing statement is prepared by an attorney or lawful settlement agent, a broker may rely on the delivery of that statement, but the broker must review the statement for accuracy and notify all parties to the closing of any errors.
- (15) Violating any rule adopted by the Commission.

(b) The Commission may suspend or revoke any license issued under the provisions of this Chapter or reprimand or censure any licensee when:

- (1) The licensee has obtained a license by false or fraudulent representation;
- (2) The licensee has been convicted or has entered a plea of guilty or no contest upon which final judgment is entered by a court of competent jurisdiction in this State, or any other state, of any misdemeanor or felony that involves false swearing, misrepresentation, deceit, extortion, theft, bribery, embezzlement, false pretenses, fraud, forgery, larceny, misappropriation of funds or property, perjury, or any other offense showing professional unfitness or involving moral turpitude which would reasonably affect the licensee's performance in the real estate business;
- (3) The licensee has violated any of the provisions of G.S. 93A-6(a) when selling, leasing, or buying the licensee's own property;
- (4) The broker's unlicensed employee, who is exempt from the provisions of this Chapter under G.S. 93A-2(c)(6), has committed, in the regular course of business, any act which, if committed by the broker, would constitute a violation of G.S. 93A-6(a) for which the broker could be disciplined; or
- (5) The licensee, who is also licensed as an appraiser, attorney, home inspector, mortgage broker, general contractor, or member of another licensed profession or occupation, has been disciplined for an offense under any law involving fraud, theft, misrepresentation, breach of trust or fiduciary responsibility, or willful or negligent malpractice.

(c) The Commission may appear in its own name in superior court in actions for injunctive relief to prevent any person from violating the provisions of this Chapter or rules adopted by the Commission. The superior court shall have the power to grant these injunctions even if criminal prosecution has been or may be instituted as a result of the violations, or whether the person is a licensee of the Commission.

(d) Each broker shall maintain complete records showing the deposit, maintenance, and withdrawal of money or other property owned by the broker's principals or held in escrow or in trust for the broker's principals. The Commission may inspect these records periodically, without prior notice and may also inspect these records whenever the Commission determines that they are pertinent to an investigation of any specific complaint against a licensee.

(e) When a person or entity licensed under this Chapter is accused of any act, omission, or misconduct which would subject the licensee to disciplinary action, the licensee, with the consent and approval of the Commission, may surrender the license and all the rights and privileges pertaining to it for a period of time established by the Commission. A person or entity who surrenders a license shall not thereafter be eligible for or submit any application for licensure as a real estate broker during the period of license surrender.

(f) In any contested case in which the Commission takes disciplinary action authorized by any provision of this Chapter, the Commission may also impose reasonable conditions, restrictions, and limitations upon the license, registration, or approval issued to the disciplined person or entity. In any contested case concerning an application for licensure, time share project registration, or school, sponsor, instructor, or course approval, the Commission may impose reasonable conditions, restrictions, and limitations on any license, registration, or approval it may issue as a part of its final decision.

(g) A broker's trust or escrow account shall be a demand deposit account in a federally insured depository institution lawfully doing business in this State which agrees to make its records of the broker's account available for inspection by the Commission's representatives.

(h) The Executive Director shall transmit a certified copy of all final orders of the Commission suspending or revoking licenses issued under this Chapter to the clerk of superior court of the county in which the licensee maintains his or her principal place of business. The clerk shall enter the order upon the judgment docket of the county. (1957, c. 744, s. 6; 1967, c. 281, s. 4; c. 853, s. 3; 1969, c. 191, s. 5; 1971, c. 86, s. 2; 1973, c. 1112; c. 1331, s. 3; 1975, c. 28; 1979, c. 616, ss. 6, 7; 1981, c. 682, s. 15; 1983, c. 81, s. 13; 1987, c. 516, ss. 1, 2; 1989, c. 563, s. 2; 1993, c. 419, s. 10; 1999-229, s. 6; 2000-149, s. 19(b); 2001-487, s. 23(b); 2002-168, s. 5; 2005-374, s. 2; 2005-395, s. 9; 2011-217, s. 6.)

License Law Case Study

Broker Bert is in a smaller market and handles residential, land and some commercial real estate. He's been licensed for 15 years and works under Broker in Charge, Sally.

One of his best clients wants to sell a lot in a neighboring county. Bert has done a few transactions in that county and his MLS covers part of it.

Bert visits the site, gathers comparables and emails planning and zoning staff for a copy of the requirements for building on lots. They send him website address. He reads the requirements.

Bert creates a flyer showing the lot location and size using a survey the seller gave him. He checks the MLS and sees that all adjoining properties listed have city water and sewer. He calls the utility department and they tell him that lot can be serviced. Cost depends on how it is developed. He advertises the property as having all utilities available in the MLS and to check with utility department regarding process and cost to hook up. His flyer says the same.

Doris, a teacher near retirement, wants to locate closer to her family. The lot is convenient to her family and her family knows some builders. She looks at Bert's information, visits the lot a couple of times with Bert. She turns down Bert's offer for dual agency and figures by representing herself, she may save some money. Besides, how hard can it be to buy a lot? It's just dirt. She makes a cash offer which is accepted and she closes.

A few months later she starts talking to builders. She is told that the lot can be hooked up the city water and sewer. The tap fee is \$4500 which includes running lines to her lot and her hookups.

Doris did not expect to pay \$4500 as she thought utilities were already there. She calls Broker Bert and he said she should have checked all this out during her Due Diligence period. He said that all utilities ARE available and it was in his flyer.

Do you think that Bert violated the NC Real Estate License Law? If so, what part?
Refer to NC GS 93A-6

So what happens at the North Carolina Real Estate Commission (NCREC)?

Complaint received

- Can be from a member of the public
- Can be from other agencies, newspaper
- Can be from a spot audit

File opened

- Assigned to appropriate staff for review
- File closed, no further action
- Investigation

Investigation by a Consumer Protection Officer or Auditor

- Letter of inquiry sent to licensee (Respondent)
- File closed
- Further investigation

Further investigation

- Done by correspondence
- Site visit/s
- File closed
- Case brought to NCREC for Probable Cause

Probable Cause presentation to NCREC

- Dismiss
- Close and Warn
- Call for a Hearing

Call for a Hearing

- Legal staff and respondent meet to discuss a settlement
- Settlement reached between respondent and staff
- Settlement brought to NCREC for approval
- Approved
- Not approved - Sent back for further discussion or Hearing
- No settlement reached
- Hearing scheduled

Hearing Held

- Respondent found to be NOT in violation
- Respondent found to be in violation
- License revoked
- License suspended
- Licensee reprimanded
- Conditions may be imposed

Case Study #1
Article 1

Realtor® Betty is a buyer agent for Herb, an investor. When they first discussed their buyer agency relationship, Herb agreed to take care of Betty's commission if it was not offered by the listing firm or owner. (In their discussion Herb said that he would pay up to 2% commission to Betty's firm.) He further authorized her firm to collect 4% as his buyer agent. Nothing is in writing yet.

When the market had many listings, Betty had no problem finding sellers who would pay the desired commission, however the market has tightened up and the small residential and commercial properties Herb buys are harder to find, more expensive and have competing buyers. Commissions offered are less.

A suitable property is found and it is a "for sale by owner". The owner says he will pay 3% commission to Betty's firm. Betty shows the property to Herb who says he thinks 3% is enough in this market and he's not willing to pay any more to Betty's firm. He makes an offer using his own contract form without signing a buyer agency agreement but shows in the offer that Betty and her firm are representing him so her firm can collect the 3% commission from the seller. Betty tells Herb he MUST sign the Buyer agency agreement or she will be in hot water with her Broker in Charge. Herb stalls her.

The sale eventually closes with Betty helping Herb as needed and acting as his agent. Herb never signs the buyer agency agreement.

When her Broker in Charge asks for the file, there is no copy of the contract and no buyer agency agreement. There are many notes, the Working With Real Estate Agents Disclosure and some emails. The closing attorney sends the commission check to the firm. The Broker in Charge bawls out Betty for not having a written agreement in place. Betty explains but the BIC is having none of it and tells Betty if it happens again, Betty will no longer be with the firm.

Herb, the investor, calls Betty to help him find more property. He is a good cash buyer and Betty decides she can handle him. This time Betty has him sign a buyer agency agreement up front but there is nothing about Herb paying 2%, only that he expects her to be paid from the seller but authorizes her firm to collect 4%.

Betty decides that she will show Herb property that pays the Buyer firm 4% or more and not show him anything which pays less. Is that OK? If not, can it be made OK? Is it a violation of article 1? Is it a violation of anything?

Case Study #2
Article 2

Realtor® Ernie is a developer. He bought 100 acres on the then edge of town many years ago and now is developing it. He is a commercial developer but wants a housing component in it. He sells a tract to an apartment developer and divides another piece into individual lots which he sells to various home builders.

Both tracts back up to a thick wooded area at the back of the property.

Over a 2 year period, the apartments are built and the large lots are sold. After that, using a Buyer Agent, the Smiths contracted with a home builder to buy one of the lots the builder has and to build their dream home. Their lot is closest to the woods, a beautiful large lot.

They move in 6 months later and one morning 3 months after that, they hear a loud BOOM! The ground shudders slightly and pans in the kitchen lightly rattle. Mostly it is the loud noise. No one in the neighborhood knows what it is. The Smiths hear and feel it more than anyone else and it isn't noticeable at the apartment complex or in the commercial section. Then another BOOM and another. It seems to be coming from the woods. Several neighbors hike into the woods but can see nothing. When they get home, they use Google Maps to see the area on the other side of the woods. The woods are deep and dense. On the other side of the woods is a cleared area and there appears to be excavation going on. BOOM!

After a bit of sleuthing, they discover it is a quarry. The BOOMS they hear is the blasting, with more expected. The area has been zoned industrial for years. The quarry was permitted a long time ago but has not been operating the past 5 years. The woods provide the required buffer between an operating quarry and adjacent property. The quarry recently reopened and there were public notice signs but that is not an area where these residents ever go - it is industrial and to get there by road, it's a long way around and why would they go there?

The Smiths call Broker Ernie, the developer, and ask him what he knew. He said that he knew that his tract backed up to an old quarry but there was a substantial buffer which exceeded requirements and allowed residential development. Besides the quarry was closed. The Smiths should have toured the area. The Smiths called the builder and their Buyer Agent who knew nothing about this.

Should someone have told the Smiths about the closed quarry? If so, who? Did anyone violate article 2? Was there any violation here of anything by anybody?

Case Study #3
Article 3

Realtor® Colin is on a listing appointment. The property is in a very desirable area which has escalated in value over the years. Nothing is for sale in the neighborhood and when something comes on the market, it goes fast with multiple offers. The owners are ready to sell their large home and move into The Carriage House, for active seniors. The owners have lived in this house for 35 years. It needs much updating but the bones are excellent and it will sell for a great price.

The owners are concerned about the hassles of showing their home, strangers coming in, so Colin suggests that they can just keep this out of the MLS and he is sure he has a client or someone in his firm has a client. They can show it privately to people they know and get an offer quickly.

While this certainly appeals to the owners, a lot of their retirement funds are dependent on the sales proceeds of this home and they really do need the best price possible.

Colin says it is up to them.

The owners decide to show it privately for a week or so to see if they get a suitable offer with minimum hassle. Colin gets this in writing from them along with their listing agreement and sends to his MLS.

A broker with a competing firm, Katie, hears about this home and not finding it in MLS calls the owners. They direct her to Colin who says he does have it listed but they are doing only private showings for a period. If it is not sold it will eventually appear in the MLS so she should watch for that.

Katie says that she has a qualified buyer right now and would like to show it today. Colin says to call him in a week. (He has several interested buyers represented by agents in his firm and he is sure there will be a suitable offer any day.) He might pop it into the MLS at the last minute so it can be treated as a comp but it will be under contract by then.....

Any problem here? Any possible violations of article 3? Anything else?

Case Study #4
Article 4

Realtor® Mary and her sister, Lila, form an LLC to buy investment property. Lila is the Manager of the LLC. The LLC hires Mary's firm to acquire various types of investment real estate. Broker Mary is from a smaller market and has expertise in various types of small investment properties, residential, commercial and land.

She researches many properties and writes offers on 3 of them. She shows the buyer as the LLC.

Mary's brother asks her to sell his land in the next county. She signs a listing agreement and sends out flyers and enters his land into the regional MLS.

Mary and her husband have decided to move to their lake home in the next county. She puts up a For Sale By Owner sign on her home but cannot put it in the MLS since it is not a listed property. She does list it on Zillow.

What does Mary need to disclose on these transactions? To whom, when and how?

Case Study #5
Article 11

Realtor® Mike has many investor buyers he has worked with over the years. He has also listed small investment real estate, mostly residential but a few commercial pieces and some land.

His uncle just died and his cousins want him to list the uncle's restaurant. It is an operating business. His uncle owned the building and it is on a land lease. It's in the next county but not that far away.

Mike has not been involved in buying or selling an ongoing restaurant before. He has sold a couple of empty restaurant buildings. One was used as a restaurant after extensive retrofitting and the other was converted to a battery store.

Of course his cousins want him to do this for free. His mother says it's his duty.

Mike does research. He checks LoopNet. He looks at available retail properties on the market. He inventories what is inside the restaurant. He gets an auctioneer and an appraiser to help him value the fixtures and furniture. He doesn't know if he should include signage or menus. He doesn't know what a buyer might be interested in.

He lists it and sends out flyers. A buyer puts it under contract. During due diligence the buyer discovers that the major fixtures are financed and there is a UCC-1 filed on them. The buyer also discovers the land lease. The big neon sign with the current name of the restaurant is grandfathered. However, no changes can be made to the sign. Any new sign will have to meet the new, more restrictive, sign requirements. This changes the value in the eyes of the buyer. The cousins refuse to consider a lower price.

The Buyer wants his earnest money back because he feels the property was misrepresented. Broker Mike says "that's what the Exam period is for."

What do you think? Is Mike in violation of article 11? Is Mike in violation of anything?

Case Study # 6
Article 13

Realtor® John is working on a complex real estate transaction in a transitional area. His buyer wants to lease a house with 3 acres of land with an option to buy it if he is able to get it approved for office . John asks his buyer if the buyer’s attorney will draw up the contract but the buyer doesn’t have an attorney and doesn’t want to hire one just to make this offer which might be turned down flat.

Broker John makes an oral offer to the owner to see if there is any interest. The owner is agreeable and they discuss specific terms which need to be addressed in the contract.

John gets a standard form purchase agreement and a standard form lease. He puts them together and references each one to the other one. He also creates an addendum detailing the contingency on being able to get office use. Everything he did was at the request of the buyer or seller. He suggests to his buyer that an attorney review what he has put together. The buyer says he will.

The contract, lease and addendum are presented to the seller who makes a few changes which are accepted by the buyer. It “closes” under the lease agreement portion and the buyer moves in and starts process of getting approval for office use.

A few months into the process the buyer hits a brick wall. There are too many obstacles which are too expensive to make this feasible. The house certainly could be used as office but not the customer- heavy office use the buyer wants.

The buyer tries to execute his contingency “out” to cancel the lease only to have the seller balk. The seller argues that since it CAN be used as office the contingency isn’t relevant. The Buyer argues that the seller knew his intentions and the buyer can’t do what he wants to. The seller says “read our agreement.” It is not clear..... The lease is for 3 years and the buyer recorded it.

Is broker John in violation of article 13? Is broker John in violation of anything?

Case study # 7
Article 12

Realtor® Doug is a tech genius. He has a wonderful “fixer upper” listing. The home is in a popular neighborhood and has been the home of Mr and Mrs Brown for 40 years. Their son was Doug’s college roommate and Doug knows the home well. It needs updating but they want to sell “as is”.

Doug uses his tech skills to “photo shop” the outside of the home and each room to show what it could look like. He is trying to convince the Browns to do some fixing up before it hits the market. He thinks it will make a big difference on the price and the time on the market. The kitchen is his biggest chore but the photo shopped pictures are beautiful.

The Browns are having none of it. They suggest that Doug show the altered pictures to interested buyers so they can see what can be done.

Doug puts the property in MLS with the photo of the house as is, but slightly enhanced. (grass, bluer sky, more contrast, attractively cropped.) He directs interested buyers and agents to his website for more information.

In the meantime the Browns go rogue and post the enhanced pictures Doug sent to them on Zillow.

Doug shows the house as is and also shows his enhanced photos on his firm’s website. He discloses that the photos are enhanced and are there only to show potential.

Somehow through a glitch, when Doug’s listing feeds to Zillow it picks up the pictures the Browns posted which do not disclose they are photo shopped.

An excited buyer comes out to see this beautiful home and is disappointed to see that it is not as they saw in Zillow. Their agent was confused until the agent looked on Zillow and saw the pictures. They were the same as Doug has posted on his company’s website but there was no disclaimer. The buyer agent sent a scathing email to Doug and Doug immediately got it corrected on Zillow. However, many saw it there and Doug is smarting from the angry remarks.

Is Doug in violation of article 12?

Case study #8
Article 16

Realtor® Stan is at a Chamber of Commerce networking event. He is a popular guy and seems to know everyone. Over by the bar he sees a developer he knows so he moseys over for a chat. During the chat he learns that the developer's project is back on track and he has several tracts of land being marketed to various end users. Stan hasn't been by the developer's site in some time so he was unaware of this progress.

Stan is an active residential agent and knows most of the homebuilders well and suggests that he would be "the best guy" to list the residential piece and market it. The developer regretfully says that it is already listed with his nephew. This nephew is new to the area and new to real estate. He has no ties with builders. He's not even at this Chamber function. It is his sister's boy.

Stan asks the developer when this listing expires and the developer says it expires in 6 months.

The next day, Stan does a market survey of the area and sends it to the developer, just for his information. It has good information regarding the markets. The developer thanks him. Next, Stan calls several of the builders and discusses the site with them. Some seem interested and ask for more information. Stan contacts the developer and tells him. The developer refers him to his nephew for this follow up.

The nephew sends some information packets to the interested homebuilders but does not follow up. When asked some questions about the site and area, the nephew is uncertain and says he will get back to them, which he does after several days. Stan does follow up and learns of the poor job the nephew is doing. He decides to try to represent one of the home builders but the homebuilder has their own site folks and while they are happy to work with Stan, they will NOT sign a buyer agency agreement with him.

Stan runs into the developer at Cindy's continuing education class and during the break, Stan says that the developer needs to let Stan be co-listing agent until the listing expires. Stan feels certain he can get 2 - 3 builders on a site tour.

The developer agrees and when he tells his nephew, his nephew (and the nephew's Mom - his sister who is a successful Realtor®) hit the roof. The nephew and Mom both say Stan is way out of line.

Is Stan in violation of article 16? Is Stan in violation of anything? Is the developer or the nephew in violation of anything?

Enforcement of the Code of Ethics

I. Ethics Cases and Arbitration Cases

- A. Ethics - Basic Issue - Is there a possible violation of the Code of Ethics?
- B. Arbitration - Basic Issue - Is there an arbitrable issue, that is, a money dispute (typically a dispute over which REALTOR is entitled to the cooperative commission in a transaction)?

II. The Ethics Enforcement Process

- A. Filing a Complaint - Who can file a complaint?
 - 1. 180 days once the facts are known or could have been known.
- B. The Grievance Committee
 - 1. A screening committee comprised of members of the Association appointed to the committee.
 - 2. Key question for the Grievance Committee is: "If the allegations in the complaint were taken as true on their face, is it possible that a violation of the Code of Ethics occurred?"
- C. The Professional Standards Hearing Panel
 - 1. Function is to conduct a full "due process" hearing with sworn testimony, witnesses and evidence.
 - 2. Hearing Panel is comprised of members of the Professional Standards Committee.
 - 3. After conducting a hearing, the Hearing Panel decides whether there was a violation of the Code of Ethics, proven by clear, strong and convincing proof.
 - 4. If the Hearing Panel finds a violation of the Code of Ethics, the Panel then determines the discipline to be imposed on the violator (respondent).

- D. Authorized Discipline (and administrative processing fees)**
- 1.** Letter of Warning
 - 2.** Letter of Reprimand
 - 3.** Education
 - 4.** Fine not to exceed \$15,000
 - 5.** Suspension for not less than 30 days nor more than one year
 - 6.** Expulsion from membership for period of one to three years
 - 7.** Suspension or termination of MLS privileges.
 - 8.** Administrative processing fee (if found in violation) not to exceed \$500 (“Court Costs”)

III. The Arbitration Process

A. Request filed w/i 180 days.....

- 1.** Arbitration is conducted under Article 17 of the Code of Ethics and the state arbitration statute (if any).
- 2.** Article 17 provides that arbitration occurs under the following circumstances:
 - a.** Contractual disputes or specific non-contractual disputes (see Standard of Practice 17-4);
 - b.** Between REALTORS® (principals) associated with different firms;
 - c.** Arising out of their relationship as REALTORS®

B. Grievance Committee

- 1.** Committee performs a screening function similar to review of ethics complaints.
- 2.** Key question for the Grievance Committee is: “If the allegations in the request for arbitration were taken as true on their face, is the matter at issue related to a real estate transaction and is it properly arbitrable, i.e. is there some basis on which an award could be based?”

C. Mediation

1. A voluntary process in which disputing parties meet with a mediator appointed by the Association to create a mutually acceptable resolution of the dispute, rather than having a decision imposed by an arbitration hearing panel.
2. Mediation can occur before or after the Grievance Committee reviews requests for arbitration, depending on local Association policy.
3. If a dispute is resolved in mediation, the parties sign an agreement spelling out the terms of the settlement, and no arbitration hearing is held.

D. Professional Standards Hearing Panel

4. Function is to conduct a full “due process” hearing with sworn testimony, counsel, witnesses and documentary evidence.
5. Hearing Panel consists of members of the Professional Standards.
6. After the hearing, the Hearing Panel decides which REALTOR is entitled to the award (typically a disputed commission in a transaction), proven by a preponderance of the evidence.

E. Payment of the Award - Generally, the award of the Panel in an arbitration case can be judicially enforced if not paid by the non- prevailing party. Some associations have procedures requiring that awards be deposited with the association pending review of the hearing process or during legal challenge.

Arbitration Case Study

Realtor® Glenn has a large lot listed under an exclusive right to sell. He has his sign on the property plus has it advertised in LoopNet and the regional MLS. It can be used for a 4 plex or light office. It could also be used for a single family home but that is not the highest and best use. It would be expensive to use that lot for a single family home.

Realtor® Debbie is representing a quirky cash Buyer. There is a signed buyer agency agreement and there was a thorough discussion. The buyer is looking for a large fancy home. Debbie says that there are many parcels out there which would be suitable for building the large home the buyer is seeking. The buyer says he will look at those in addition to homes already built. The Buyer points out Glenn's lot as they drive by but Debbie notes it is for multifamily or office. The Buyer says he really likes that lot. Debbie says it is not for him.

A few days later, the buyer is out riding around on his own and sees Glenn's listing sign again. Although the buyer is not in the market for a lot like this, it intrigues him because he likes the location so he calls Glenn. Glenn asks if the buyer has a broker and the buyer hesitates and says No, not for investment property. He has an agent helping him with a home.

Glenn explains that he works for the seller but can send him information. Does the Buyer want to use his agent? The Buyer says no. The Buyer asks Glenn if he could build a home on this lot. Glenn says yes but it's not the best use. Debbie shows him homes and other lots but none compare to this one. He doesn't tell Debbie about it.

The Buyer decides to rent a home for now and keep looking. In the meantime he pursues information on Glenn's lot. When he feels sure he can build what he wants on it, he makes an offer. He may decide to build his home on it, build investment property on it or divide it. The buyer makes an offer, is it accepted and it closes. Glenn thinks the buyer is a bit wacky to spend all that money for a lot to build his home on, but it is a cash buyer and that's fine with Glenn.

The Buyer decides to subdivide it and build his home on the front and sell the rest.

When Debbie follows up and hears about this, she asks when he bought that lot. He tells her and she asks why he left her out. He said she said it wasn't what he was looking for but he discovered he could subdivide it and use it for his home. She didn't know that nor did she suggest that or even ask Glenn. He told her he liked that lot.

Debbie reminds him that he now owes her a commission and he says "Good luck with that", and he thought her incompetent. Debbie files for arbitration with Glenn. Glenn says he did not know Debbie was involved.

Should Debbie receive any commission?

CODE OF ETHICS AND STANDARDS OF PRACTICE OF THE NATIONAL ASSOCIATION OF REALTORS®

Effective January 1, 2024



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. Upon the written request of a cooperating broker who submits an offer to the listing broker, the listing broker shall provide, as soon as practical, a written affirmation to the cooperating broker stating that the offer has been submitted to the seller/landlord, or a written notification that the seller/landlord has waived the obligation to have the offer presented. 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 1/20)
- **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. Upon the written request of the listing broker who submits a counter-offer to the buyer's/tenant's broker, the buyer's/tenant's broker shall provide, as soon as practical, a written affirmation to the listing broker stating that the counter-offer has been submitted to the buyers/tenants, or a written notification that the buyers/tenants have waived the obligation to have the counter-offer presented. 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 1/22)
- **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 seller. (Adopted 1/10, Amended 1/23)
- **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)
- **Standard of Practice 3-11**
REALTORS® may not refuse to cooperate on the basis of a broker’s race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity. (Adopted 1/20, Amended 1/23)

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, disability, 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, disability, familial status, national origin, sexual orientation, or gender identity. (Amended 1/23)

REALTORS®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity. (Amended 1/23)

• 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, disability, familial status, national origin, sexual orientation, or gender identity. (Adopted 1/94, Renumbered 1/05 and 1/06, Amended 1/23)

• 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)

• Standard of Practice 10-5

REALTORS® must not use harassing speech, hate speech, epithets, or slurs based on race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity. (Adopted and effective November 13, 2020, Amended 1/23)

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® must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the REALTOR® will receive no financial compensation from any source for those services. (Amended 1/22)

• **Standard of Practice 12-2**

(Deleted 1/20)

• **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, images, 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) otherwise misleading consumers, including use of misleading images. (Adopted 1/07, Amended 1/18)

• **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 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)
 - 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.



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