

## **DISCIPLINARY COMPLAINT PROCEDURES**

1. Complaints must be legible and submitted on a Santa Clara County Association of Realtors® Disciplinary Complaint Form and filed **within one hundred and eighty days** after the facts constituting the matter complained about could have been known in the exercise of reasonable diligence. The disciplinary complaint must allege specific Article(s) from the Code of Ethics and **must be accompanied by an attached statement, marked Exhibit 1, which states the facts supporting the allegations. Copies of contracts, agreements and other documents may be included.** SCCAOR does not independently investigate complaints.
2. Complaints are referred to the Grievance Committee. The committee may: 1) refer the complaint to a Professional Standards disciplinary hearing, 2) dismiss the complaint or 3) amend the complaint by deleting or adding Article(s) of the Code of Ethics. In the event the Grievance Committee dismisses the entire complaint or deletes Article(s); the Complainant may request the Directors review the Committees' decision. The complainant does not have the right to be present at the Directors review. There is no other type of review of the Grievance Committees' decision.
3. If the complaint is referred to a disciplinary hearing, the Respondent(s) will be mailed a copy of the Complaint. A response is due within fifteen (15) days of the date the complaint is mailed. Complainant(s) will be mailed a copy of the response. Complainant(s) and Respondent(s) are given a list of potential panelists and may challenge the qualification of any member for cause. Panel members may be excused for any of the following reasons: a) is related by blood or marriage (to the fourth degree) to either Complainant(s) or Respondent(s); b) is an employer, partner, employee or in any way associated in business with either party; or c) is a party; or d) knows of any reason which may prevent them from rendering an impartial decision.
4. Complainant(s) and Respondent(s) will be notified in writing at least twenty-one (21) days in advance of the time, date and place of the hearing. The hearing will be tape-recorded and a copy will be available to any party, at cost. Parties may be represented by legal counsel and must give the Board and the other party at least fifteen (15) days written notice of their intention to be represented by counsel. It is the responsibility of the parties to have their documents and witnesses with them on the day of the hearing.
5. The hearing will be conducted in the English language. Interpreters are allowed to assist any party or witness(es) at the hearing. Arrangements for having an interpreter is the responsibility of the party requiring such services and the cost for same shall be paid by that party.
6. Disciplinary actions are limited to: 1) letter of warning, 2) letter of reprimand, 3) required training class, 4) fine not to exceed five thousand dollars (\$5000.00) per respondent, payable to the Santa Clara County Association of Realtors®, 5) suspension or expulsion from Board membership. Disciplinary actions may be held in abeyance provided the respondent(s) is not found in violation of the same Article(s) within one (1) year of the date the decision is affirmed by the Board of Directors.

7. Hearing panelists do not have the authority to order payment of moneys, return of deposits, payment of damages, enforcement or cancellation of contracts, suspension or revocation of real estate licenses. The Department of Real Estate, 1515 Clay Street #702, Oakland, CA 94612-1413, telephone: 510-622-2552 is the licensing agency for the State of California. Violations of real estate law should be referred to this agency.

## **PLEASE READ THIS BEFORE SUBMITTING A DISCIPLINARY COMPLAINT**

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- 1) All pages comprising Disciplinary Complaint **must be 8 1/2 inches by 11 inches** (legal size contracts must be reduced to 11 inches long.)
- 2) Pages must be printed clearly. Submit six copies along with the original complaint.
- 3) Do not use colored highlighters over dates or signatures.
- 4) Your statement referenced by "Exhibit 1" should state clearly and concisely what specific actions you feel constitute a violation of the Code of Ethics or are the basis of your dispute.
- 5) If you are filing a disciplinary complaint, you must cite a specific Article or Articles of the Code of Ethics.
- 6) Be sure your Disciplinary Complaint is dated and signed by all complainants.
- 7) Disciplinary complaints must be received by the Association within one hundred and eighty (180) days after the facts could have been known with due diligence.

### DISCIPLINARY COMPLAINT

1. I (we), the undersigned complainant(s), hereby allege that the following persons have engaged in conduct subject to disciplinary action by the Association:

**RESPONDENT(S):**

(1) \_\_\_\_\_  
 Name (Type or Print)

Firm \_\_\_\_\_

Street Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_

email \_\_\_\_\_

(2) \_\_\_\_\_  
 Name (Type or Print)

Firm \_\_\_\_\_

Street Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_

email \_\_\_\_\_

**RESPONDENT(S):**

(3) \_\_\_\_\_  
 Name of Manager (Type or Print)

Firm \_\_\_\_\_

Street Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_

email \_\_\_\_\_

(4) \_\_\_\_\_  
 Name (Type or Print)

Firm \_\_\_\_\_

Street Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_

email \_\_\_\_\_

2. The above named respondent (s) have violated the following:

Code of Ethics violations:

- Article 1: REALTORS® owe a fiduciary duty to their clients.
- Article 2: REALTORS® must avoid concealment of pertinent facts.
- Article 3: REALTORS® must cooperate with other brokers.
- Article 4: REALTORS® must disclose any interest they have in a property they are buying or selling.
- Article 5: REALTORS® must disclose any contemplated interest they have in property for which they are providing professional services.

- Article 6: REALTORS® cannot accept profit on expenditures made for their client or recommendations to their client without disclosure.
- Article 7: REALTORS® must disclose and obtain consent to accept compensation from more than one party.
- Article 8: REALTORS® must keep a trust account for clients' funds.
- Article 9: REALTORS® must insure that all agreements are in writing and clear.
- Article 10: REALTORS® must not discriminate in their business on the basis of race, color, religion, sex, handicap, familial status or native origin.
- Article 11: REALTORS® must provide competent service.
- Article 12: REALTORS® must present a true picture in advertising.
- Article 13: REALTORS® must not engage in the unauthorized practice of law.
- Article 14: REALTORS® must cooperate in professional standards proceedings.
- Article 15: REALTORS® must not knowingly lie about competitors.
- Article 16: REALTORS® must not interfere with the exclusive representation agreements of other REALTORS®.
- Article 17; REALTORS® must arbitrate contractual disputes and certain non-contractual disputes arising out of the real estate business.
- Other membership duty as set forth in the bylaws of the Association (specify):

3. The facts and circumstances supporting the above allegation(s) are detailed in the attached statement marked "Exhibit 1," which is hereby incorporated by reference and made part of this complaint.
4. I am informed that the named respondent (s) are current REALTOR® members of the Association.
5. Date of knowledge of alleged misconduct is \_\_\_\_\_. This complaint must be filed within 180 calendar days after the facts constituting alleged misconduct could have been known in the exercise of reasonable diligence.
6. Are the circumstances giving rise to this complaint, or the respondents in this case, involved in a civil or criminal proceeding or in any proceeding before a governmental agency?  
 YES\_\_\_\_\_ NO\_\_\_\_\_ If you answered yes, please attach a written statement of explanation.
7. Have you filed, or do you plan to file a similar or related complaint with another Association of REALTORS®?  
 YES\_\_\_\_\_ NO\_\_\_\_\_ If you answered yes, please attach a written statement of explanation.
8. I understand there will be a tape recording of any full disciplinary hearing. I understand that the tape recording is subject to the rules of confidentiality and is made solely for the purpose of a Review by the Association Board of Directors, if one is requested.

9. I agree to abide by the rules and procedures used by this Association to conduct disciplinary hearings.

**Under the penalties of perjury, I declare that to the best of my knowledge and belief my allegations in this complaint are true and correct.**

**Dated:** \_\_\_\_\_ **at** \_\_\_\_\_, **California**

**COMPLAINANT(S):**

**COMPLAINANT(S):**

(1) \_\_\_\_\_  
 Signature

(3) \_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Name (Type or Print)

\_\_\_\_\_  
 Name (Type or Print)

\_\_\_\_\_  
 Firm

\_\_\_\_\_  
 Firm

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 City, State, Zip

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 Phone

email  
 (2) \_\_\_\_\_  
 Signature

email  
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 Signature

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