

## DISCIPLINARY COMPLAINT PROCEDURES

1. Any person, whether or not a member, participant or subscriber, may file a complaint against a member alleging a violation of the current NAR Code of Ethics and Standards of Practice. The Association can only accept complaints that fall within the authority and jurisdiction of the Association.
2. The Complaint must be in writing, signed by the complainant and state the facts upon which the complaint is based. A complaint meeting all filing requirements must be legible and submitted on a Santa Clara County Association of REALTORS® (SCCAOR) Disciplinary Complaint Form (D-1) and filed within one hundred and eighty (180) calendar days after the facts constituting the wrongful conduct could have been known in the exercise of reasonable diligence. The disciplinary complaint must allege specific Article(s) from the current NAR Code of Ethics and Standards of Practice 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.
3. Complaints are referred to the Grievance Committee. The committee may: 1) designate the complaint for a Citation; 2) dismiss the complaint; 3) amend the complaint by deleting or adding Article(s) of the current NAR Code of Ethics and Standards of Practice or 4) refer the complaint to a Professional Standards disciplinary hearing as presented. The Grievance Committee initially considers allegations of unethical conduct. The Grievance Committee does not determine guilt or innocence. In the event the Grievance Committee dismisses the entire complaint or deletes Article(s); the Complainant may request a Directors review of the Grievance Committee's decision. When the Directors review the Grievance Committee's decision, the Complainant does not have the right to be present at the Directors Review.
4. Code of Ethics violations under the Association Citation Policy shall only be from those Article(s) authorized by the SCCAOR Board of Directors. Any REALTOR® receiving a Citation may either 1) complete specified training (at the option of the Association); 2) pay the amount specified on the Citation; or 3) request a full hearing to contest the Citation.

Citation violation Article(s) authorized by the Association Board of Directors are listed below:

**Article 3**

1. Failure to disclose the existence of dual or variable rate commission

**Article 12**

1. Failure to disclose professional status in advertising and other representations.
2. Failure to present a true picture in advertising and other representations to the public, including internet content, URLs, and domain names.
3. Failure to disclose the name of the firm in advertisement for listed property in a reasonable and apparent manner.
4. Falsely claiming to have "sold" property.

**The Amount of the fine for a citable offense is as follows:**

- |                   |          |
|-------------------|----------|
| 1. First offense  | \$ 250   |
| 2. Second offense | \$ 500   |
| 3. Third offense  | \$ 1,000 |
5. 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) calendar 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.
  6. Parties will be notified in writing at least twenty-one (21) calendar 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 written notice of attendance at least fifteen (15) calendar days prior to the hearing. It is the responsibility of the parties to have their documents and witnesses with them on the day of the hearing.

7. The hearing will be conducted in the English language. Interpreters are allowed to assist any party at the hearing. Arrangements and cost for having an interpreter is the responsibility of the party requiring the service. The California Judicial Council maintains a list of certified and registered interpreters from which courts can make their selection. The Association uses this master list of certified and registered interpreters to find qualified, neutral interpreters and translators who would be able to assist parties and witnesses in professional standards hearings.
8. The 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 California Bureau of Real Estate, Complaint Intake Unit, 320 W. 4<sup>th</sup> St., Ste. 350, Los Angeles, CA 90013-1105, telephone: 510 622-2552 is the licensing agency for the State of California. Violations of real estate law should be referred to this agency.
9. Disciplinary recommendations are limited to: 1) letter of warning; 2) letter of reprimand; 3) fine commensurate with the gravity of the determined violation not to exceed \$15,000 payable to the Santa Clara County Association of REALTORS®; 4) required training course or other educational course; 5) requirement for the respondent to “cease or refrain” from continued conduct deemed to be in violation of the current NAR Code of Ethics and Standards of Practice, within a time period to be determined by the hearing panel; 6) suspension or expulsion of Association membership for a stated period of time. More than one type of discipline is permitted, per party, per hearing. There is an administrative fee of \$500 for parties found in violation of the NAR Code of Ethics to be paid within 15 calendar days.
10. All discipline will be published on the C.A.R. website except warnings, desist and refrain order, or education that does not include a fine, letter of reprimand, suspension or expulsion. If the respondent is found in violation of the current NAR Code of Ethics and Standards of Practice, C.A.R. shall publish the following information on their website 1) name and photo of the member found in violation (but not the name of the firm the member is affiliated with; 2) if the responsible broker is also found in violation, the name of the responsible broker will also be published; 3) if a member’s name is similar to another member’s name, the member’s real estate license number and/or office address may also be included; 4) the Article(s) violated; 5) a brief factual synopsis of the matter with names redacted except the respondent; 6) discipline imposed; 7) the effective date and duration of the discipline. The information will be removed from the C.A.R. website three (3) years after initial publication.

**The above procedures are extracts of the 2016 California Code of Ethics and Arbitration Manual. Please refer to this manual for complete and detailed procedures.**

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

1. All pages of the Disciplinary Complaint must be on 8 ½ inches by 11 inches paper. (Legal size contract must be reduced to 11 inches long.)
2. Page 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 NAR Code of Ethics and Standards of Practice or are the basis of your dispute.
5. If you are filing a disciplinary complaint, you must cite a specific Article(s) of the NAR Code of Ethics and Standards of Practice.
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-eighty (180) calendar days after the facts could have been known with due diligence.

**DISCIPLINARY COMPLAINT  
 SANTA CLARA COUNTY ASSOCIATION OF REALTORS®**

For Association Use Only Case No. _____ Complaint Received: _____, 20____
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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 \_\_\_\_\_

DRE Number \_\_\_\_\_

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

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

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

Firm \_\_\_\_\_

DRE Number \_\_\_\_\_

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

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

**RESPONDENT(S):**

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

Firm \_\_\_\_\_

DRE Number \_\_\_\_\_

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

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

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

Firm \_\_\_\_\_

DRE Number \_\_\_\_\_

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

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

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<sup>®</sup> must disclose any interest they have in a property they are buying or selling.
  - Article 5: REALTORS<sup>®</sup> must disclose any contemplated interest they have in property for which they are providing professional services.
  - Article 6: REALTORS<sup>®</sup> cannot accept profit on expenditures made for their client or recommendations to their client without disclosure.
  - Article 7: REALTORS<sup>®</sup> must disclose and obtain consent to accept compensation from more than one party.
  - Article 8: REALTORS<sup>®</sup> must keep a trust account for clients' funds.
  - Article 9: REALTORS<sup>®</sup> must ensure that all agreements are in writing and clear.
  - Article 10: REALTORS<sup>®</sup> must not discriminate in their business on the basis of race, color, religion, sex, handicap, familial status or native origin.
  - Article 11: REALTORS<sup>®</sup> must provide competent service.
  - Article 12: REALTORS<sup>®</sup> must be honest in their real estate communications and present a true picture in advertising.
  - Article 13: REALTORS<sup>®</sup> must not engage in the unauthorized practice of law.
  - Article 14: REALTORS<sup>®</sup> must cooperate in professional standards proceedings.
  - Article 15: REALTORS<sup>®</sup> must not knowingly or recklessly make false or misleading statements about competitors.
  - Article 16: REALTORS<sup>®</sup> must not interfere with the exclusive representation agreements of other REALTORS<sup>®</sup>.
  - Article 17: REALTORS<sup>®</sup> 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<sup>®</sup> members of the Association and/or participants/subscribers in the MLS or that the property at issue is located within the jurisdiction of this Association.
  5. Date of knowledge of alleged misconduct is \_\_\_\_\_. This complaint, meeting all filing requirements, must be filed within 180 calendar days after the facts constituting alleged misconduct could have been known in the exercise of reasonable diligence or one hundred eighty (180) days after the conclusion of the transaction, or event, whichever is later.
  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<sup>®</sup>?  
YES \_\_\_\_\_ NO \_\_\_\_\_ If you answered yes, please attach a written statement of explanation.

8. I understand there will be a recording of any full disciplinary hearing. I understand that the 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 will be represented by an attorney, whose name, address, telephone number, and email address are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. I agree to abide by the rules and procedures used by this Association to conduct disciplinary hearings. I understand that the proceedings regarding this matter will be kept confidential and that I have an obligation to maintain and protect this confidentiality.

**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)

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DRE Number

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DRE Number

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Street Address

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Street Address

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City, State, Zip

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

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Phone

\_\_\_\_\_ email

\_\_\_\_\_  
Phone

\_\_\_\_\_ email

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

(4) \_\_\_\_\_  
Signature

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Name (Type or Print)

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Name (Type or Print)

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