

Eastern Connecticut Association of REALTORS®

Ethics Citation Program

In an ongoing effort to increase professionalism in the marketplace, streamline the ethics hearing process and protect the interests of the general public, ECAR has adopted the following Ethics Citation Program for Code of Ethics violations.

I. Preliminary Procedures/Review by Grievance Committee

A. ECAR will establish a Citation Schedule of potential violations that are covered by the Ethics Citation Program, and the fines and educational requirements that apply to those violations. Information about the Ethics Citation Program, including the Citation Schedule, will be provided with the information sent to all potential complainants who are considering filing complaints with the Association.

B. When the Grievance Committee receives a complaint, it shall review the complaint to determine if it includes allegations that are covered by the Citation Schedule.

- 1) If the complaint does not include allegations covered by the Citation Schedule or it includes a mixture of those that are covered by the Citation Schedule and those that are not, the complaint shall be processed according to the usual terms of the Code of Ethics and Arbitration Manual.
- 2) If the complaint includes only allegations covered by the Citation Schedule, the Grievance Committee will proceed under Subsection C. below.

C. If the complaint includes only allegations covered by the Citation Schedule, the Grievance Committee will review the information presented in the complaint and, taking all information in the complaint as true on its face, determine if there is a potential violation of the Code of Ethics. The Grievance Committee will not be permitted to add respondents or additional articles of the Code at this stage in the proceedings.

- 1) If the Grievance Committee determines there is not a potential violation, the complaint shall be dismissed according to the usual terms of the Code of Ethics and Arbitration Manual, preserving the complainant's right to appeal the dismissal.
- 2) If the Grievance Committee determines there is a potential violation of the Code of Ethics, it shall issue a citation to the respondent pursuant to Section II, below, which shall include the fine(s) and education established by the Citation Schedule.
- 3) In the event the members of the Grievance Committee determine the conduct described in the complaint is sufficiently egregious to warrant a hearing rather than a citation, the complaint shall be referred to the Professional Standards Committee for hearing consistent with the policies and procedures set forth in the *Code of Ethics and Arbitration Manual* for ethics hearings.

II. Issuance of Citations

A. The citation will be sent to the respondent, as well as to the REALTOR® principal (Broker) of the respondent's office. If the respondent changes firms before or after the complaint is filed but before the citation is issued, both the former and current REALTOR® principal will receive a copy of the citation. The complaint itself will be provided but the identity of the complainant will not be provided.

B. The respondent will have twenty (20) days from transmission of the citation to provide notice whether the respondent will accept the citation and pay the fine, or whether the respondent requests a full hearing on the complaint.

- 1) If the respondent does not reply within ten (10) days of receiving the citation, a reminder shall be transmitted in which the respondent is reminded of the response deadline, the respondent's

right to elect a hearing, and the fact that the hearing process will automatically be started if a response is not received in a timely manner.

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

3) If the respondent accepts the citation or if the respondent does not request a hearing within twenty (20) days of transmission of the citation, payment of the fine must be received by ECAR no later than thirty (30) days after the date of acceptance.

a) Failure to pay the citation amount within thirty (30) days of receipt will result in the automatic suspension of membership until the citation has been paid.

b) The case will be deemed to be closed upon receipt of payment and completion of the education requirement, and notice will be provided to the complainant that the citation(s) has been issued and paid and the education requirement completed.

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

III. Limitations

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

1) No more than two (2) citations within a consecutive twelve (12) month period, starting on the date the first complaint was filed.

2) No more than three (3) citations within a consecutive thirty-six (36) month period, starting on the date the first complaint was filed.

3) No additional citations are permitted where the cumulative fine for the citations issued would be more than \$1,650 in any three (3) year period at the same association.

B. Should an individual respondent exceed the limits in subsection A, above, any further complaints will be processed as a regular complaint without the opportunity to participate in the citation program. The Secretary will review the citation history of a respondent to determine eligibility, and if the respondent is not eligible to receive a citation, the complaint will be forwarded to the Grievance Committee with a notation that the complaint is not covered by the Citation Schedule, but the Grievance Committee will not be told any specifics of why it is not eligible.

C. The fact that a respondent has previously been issued a citation for any violation—whether or not it was paid—shall not be admissible in any ethics or arbitration hearing, including a hearing for a complaint where the respondent rejected a citation.

D. Neither paid nor unpaid citations will be considered in any publication of violations should such rules be adopted by the Association; only violations after a full hearing may be published.

E. The fact that a respondent has previously been issued a citation for any violation – whether or not it was paid – shall not be admissible in any ethics or arbitration hearing, including a hearing to consider a complaint where the respondent rejected a citation and requested a hearing.

Where a Hearing Panel has found a violation of the Code of Ethics after a full hearing, it may consider past citations paid by the respondent in establishing a sanction only if the citation was for the same violation at issue in the hearing. By way of example, if a citation was issued for failure to disclose a dual or variable rate commission under Standard of Practice 3-4, that citation could not be considered if a Hearing Panel later found a violation of Article 3 on some other grounds. The Hearing Panel shall not be informed of past citations for other violations.

F. The Secretary will track the number of citations issued, the number of citations paid, and the violations for which citations were issued. This information may be provided in the aggregate to the ECAR Board of Directors and the membership but will not include details about the complaints nor identify the respondents.

G. The allegations, discussions and decisions made in the citation process are confidential and shall not be reported or published by the board, any member of a tribunal, or any party under any circumstances except those established in Limitations, Section V of this policy and the Code of Ethics and Arbitration Manual of the National Association as from time to time amended.

IV. Citation Schedule

A. The following Articles and Standards of Practice are covered by the Ethics Citation Program:

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.

- Failure to fully disclose and obtain consent from both parties when representing both the seller/landlord and buyer/tenant in the same transaction (Article 1, supported by Standard of Practice 1-5)
- Failure to submit offers and counteroffers objectively and as quickly as possible (Standard of Practice 1-6)
- Failure to advise sellers/landlords of information prior to entering into a listing contract (Standard of Practice 1-12)
- Failure to advise buyers/tenants of information prior to entering into a buyer/tenant agreement (Standard of Practice 1-13)
- Accessing or using, or allowing others to access or use, a property managed or listed on terms other than those authorized by the owner or seller (Standard of Practice 1-16)

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.

- Failure to communicate a change in compensation for cooperative services prior to the time that REALTOR® submits an offer to purchase/lease the property (Standard of Practice 3-2)
- As a listing broker, attempting to unilaterally modify the offered compensation with respect to a cooperative transaction after a REALTOR® has submitted an offer to purchase or lease that property (Standard of Practice 3-2)
- Failure to disclose existence of dual or variable rate commission (Standard of Practice 3-4)

- Failure to disclose existence of accepted offers to cooperating brokers (Standard of Practice 3-6)
- REALTORS® shall not provide access to listed property on terms other than those established by the owner or the listing broker. (Standard of Practice 3-9)

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.

- Failure to disclose REALTOR® interest in property being bought or sold (Article 4)

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.

- Providing professional service without disclosing interest in property (Article 5)

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.

- Accepting any commission, rebate or profit on expenditures without client's knowledge or consent (Article 6)
- Failure to disclose to a client or customer REALTOR®'s financial benefits or fees received as a direct result of recommending real estate products or services (Article 6 (second paragraph))
- Failure to disclose REALTOR®'s direct interest in an organization or business entity when recommending to a client or customer that they use the services of that organization or business entity (Standard of Practice 6-1)

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.

- Failure to present a true picture in real estate communications and advertising (Article 12)
- Failure to disclose professional status in advertising and other representations (Article 12)
- Failure to disclose professional status in advertising or other real estate communications (Article 12)
- Failure to provide all terms governing availability of a "free" product or service in an advertisement or other representation (Standard of Practice 12-1)

- Failure to disclose potential to obtain a benefit from third party when REALTOR® represents their services as “free” or without cost (Standard of Practice 12-2)
- Failure to exercise care and candor when communicating the terms and conditions of premiums, prizes, merchandise discounts or other inducements to list, sell, purchase, or lease (Standard of Practice 12-3)
- Advertisement offering to sell/lease property without authority of owner or listing broker (Standard of Practice 12-4)
- Failure to disclose name of firm in advertisement for listed property (Standard of Practice 12-5)
- Failure to disclose status as both owner/landlord and REALTOR® or licensee when advertising property in which REALTOR® has ownership interest (Standard of Practice 12-6)
- Falsely claiming to have “sold” property (Standard of Practice 12-7)
- Failure to take corrective action when it becomes apparent that information on a REALTOR®’s website is no longer current or accurate (second sentence of Standard of Practice 12-8)
- Failure to disclose firm name and state of licensure on REALTOR® firm website (Standard of Practice 12-9)
- Misleading consumers through deceptive framing, manipulating content, deceptively diverting internet traffic, or presenting other’s content without attribution or permission (Standard of Practice 12-10)
- Registration or use of deceptive URL or domain name (Standard of Practice 12-12)
- Representing that the REALTOR® has a designation, certification or other credential that the REALTOR® is not entitled to use (Standard of Practice 12-13)

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.

- Failure to cooperate in any professional standards proceeding or investigation (Article 14)

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.

- Use of terms of an offer to modify listing broker’s offer of compensation (Standard of Practice 16-16)
- Placement of for sale/lease sign on property without permission of seller/landlord (Standard of Practice 16-19)

B. Fines for citations shall be as follows:

- 1) For the first violation: \$150
- 2) For a second violation: \$500
- 3) For a third violation: \$1,000

C. Education commensurate with the Article violated is required to be taken within 90 days of the receipt of the Citation by the respondent for all violations. It is the respondent's responsibility to provide proof of attendance at the required course.