

A GUIDE TO

**FILING
ETHICS
COMPLAINTS**

AND

**ARBITRATION
REQUESTS**

WITH THE

**REALTORS®
ASSOCIATION
OF THE
PALM BEACHES**



REALTOR

Preface

The Code of Ethics was adopted by the National Association of Realtors® in 1913. Since then, Realtors® everywhere have agreed to meet its high standards. The enforcement of the Realtors® Code of Ethics is a very important part of the Realtors® Association of the Palm Beaches, and helps to ensure the highest level of professional service to members of the public. This brochure was prepared to help you understand the Professional Standards process.

Q. Do you have a complaint concerning a Realtor®?

- A. The first thing that must be determined in processing a complaint with the Association is whether the real estate licensee involved is a Realtor®? Not all real estate licensees are Realtors®. Only those who belong to the Realtor® Association can use the term Realtor®. By joining the Association, all members agree to abide by the Realtor® Code of Ethics.

Q. Is your complaint about Ethics or Arbitration?

- A. You may have to consider whether your complaint concerns an ethics matter or arbitration of a business dispute. An ethics complaint charges that a Realtor® has violated an Article(s) of the Code of Ethics.

Arbitration is a means of resolving a business dispute arising out of a real estate transaction that parties have been unable to solve themselves. An arbitration complaint or request is a simple notice by a member of a disagreement with another member, usually a commission dispute. Sometimes, an arbitration concerns a dispute between a member of the public and a Realtor®.

If your situation concerns both ethics and arbitration, the Association will handle the arbitration portion SEPARATELY and FIRST. Only when the arbitration is completed will the ethics complaint be considered.

Q. Who may file an ethics complaint?

A. Any person, whether a member or not, may file a complaint against a Realtor® alleging a violation of the Code of Ethics, providing the complaint:

- (1) is in writing on the proper form
- (2) is signed by the complainant
- (3) states the facts surrounding the case
- (4) is filed within 180 days after the facts became known

The complainant may file a complaint from any location providing it is filed with the Association having jurisdiction over the individual named in the complaint.

Q. Who may file an arbitration request?

- A. • Realtors® who are principal brokers
- Realtors® who are not principals, provided their principal broker joins in the request
 - Clients or customers of a Realtor®

The request must also:

- 1) Be in writing
- 2) Be signed by the complainant
- 3) Indicate the amount in dispute
- 4) Be filed within 180 days after the facts became known

Arbitration is provided by the Association as a service to its members. Arbitration is not a disciplinary proceeding nor can damages be awarded. By becoming

and remaining a member of the Realtor® Association, Realtors® bind themselves to arbitrate certain disputes.

Be advised that not every situation may be arbitrated by the Association. There are conditions and limitations to be considered, which will be explained to you as the process continues.

Q. What can the Association do?

A. The Association has limitations to its authority regarding its members.

- 1) The Association **cannot** judge a member regarding alleged violations of the Florida real estate license law or any other alleged violation of the law. The Association has jurisdiction only over violations of membership duties. The Florida Real Estate Commission has sole authority over individual real estate licensees. If you think a licensee has violated the law, you advised to contact the Florida Real Estate Commission.
- 2) For the same reason, the Association **cannot** suspend or revoke the real estate license of one of its members.
- 3) The Association **can**, in the case of an ethics violation being determined in a due process hearing procedure, discipline a member in one or more of the following ways:

- Execute a letter of warning or reprimand
 - Require the member to attend an ethics class or other training appropriate to the violation
 - Place the member on probation
 - Suspend membership
 - Expel the member
 - Fine the member up to \$5,000
- 4) Monetary damages **may not** be a part of an ethics proceeding
 - 5) The Association can arbitrate certain monetary disputes and must, in some situations, but the member of the public must agree in writing to arbitrate the dispute and to be bound by the decision of the arbitration panel
 - 6) The award in arbitration may not be more than the amount in dispute and in no circumstances can “punitive” damages be awarded.

Q. How do you file?

- A. Now that you know the ground rules, if you wish to file a complaint, here’s how you do it.

Ethics Complaints

- 1) Complete and sign the complaint form (supplied by the Association). This form requests you to name the Realtor®(s) in question as the Respondent(s)
- 2) List the Article(s) of the Code of Ethics that you think the

Realtor® has violated (the Association will supply you with a copy of the Code of Ethics).

- 3) Attach an explanation of the situation surrounding the complaint. Be as specific as possible. State what, when, where, why and how you think each Article was violated.
- 4) Attach copies of any and all pertinent documents such as listing agreements, purchase and sales agreements, addendums, etc. If you have notarized statements from witnesses, include those also.
- 5) Send the entire package, **keeping a copy for yourself**, to the Association to the attention of the Manager of Professional Standards.

Arbitration Requests

The process is very similar to filing an ethics complaint. A Request for Arbitration Form will be supplied by the Association.

- 1) Name the Realtor®(s) involved (Respondents)
- 2) Indicate the amount in dispute
- 3) Include an explanation of the situation stating why you think you are entitled to a monetary award of some kind. Remember, **don’t** include allegations of unethical conduct in your argument. If you think there have been ethical violations, they must

be handled separately with an ethics complaint.

- 4) Attach copies of any and all pertinent documents such as listing agreements, purchase and sales agreements, closing statements, etc., and any notarized statements from witnesses.
- 5) The Association charges a fee for arbitration. The Association's Manager of Professional Standards will inform you of the exact fee.
- 6) You will be asked to sign an arbitration agreement indicating your commitment to abide by the decision of the Hearing Panel. Sometimes this Agreement won't be requested until after the Grievance Committee has reviewed your request.
- 7) Send all these items to the Association to the attention of the Manager of Professional Standards.

Remember, it is not unusual for the Association to receive an ethics complaint and an arbitration request surrounding the same set of circumstances. If you think the Realtor®(s) violated the Code of Ethics **and** you have a monetary dispute with him, you must complete **both** forms.

Q. How does the Association process the complaint?

A. There are two committees of the Association that handle complaints, the Grievance Committee and the

Professional Standards Committee. Their functions are described below.

Grievance Committee

Ethics. The Grievance Committee reviews complaints when they are received by the Association. The Committee determines whether the complaint has sufficient merit for further consideration, somewhat like a "Grand Jury." It does not determine guilt or innocence. The Committee will either:

- 1) Forward the case for a hearing;
- 2) Dismiss it, if the complaint is determined to be frivolous, harassing or unfounded; or
- 3) Postpone its decision based on getting more information from you or determining that the case may be more appropriately considered for arbitration

Also, before they reach a decision, the Committee may request a reply from the Respondent regarding your complaint.

If your complaint is dismissed by the Committee, you have the right to appeal the dismissal to the Association's Board of Directors. In the case of an appeal, the Directors re-examine the materials submitted to the Grievance Committee and can either uphold or overturn the Grievance Committee's decision.

If the complaint is to be given further consideration, The Grievance Committee will send it to the Professional Standards Committee for a hearing.

Arbitration. The Grievance Committee's role in arbitration is different from ethics

complaints. Its function is only to make such preliminary investigation to determine whether the matter is subject to arbitration by the Association. Arbitration is sometimes a member duty and sometimes a privilege. The Committee determines:

- 1) Whether you are authorized, under the rules, to invoke arbitration
- 2) Whether the controversy described is an arbitrable matter
- 3) Whether the arbitration is mandatory or voluntary (this simply means whether arbitrating the dispute is mandatory, or not)
- 4) Whether the amount in dispute is too small or too large, or the matter is too legally complicated for the Association to consider it

Such a review could result in the release of the member(s) from the obligation to arbitrate, and thus free the complainant to seek other recourse in order to resolve the dispute.

If the Grievance Committee determines that a matter is arbitrable, it may also notify the parties that mediation is available as a preliminary, voluntary alternative to arbitration.

In either ethics or arbitration cases, you will be informed promptly of the Grievance Committee's decision. If the Grievance Committee forwards the complaint or request for a hearing, it is assigned to the Professional Standards Committee.

As in the case of ethics complaints, you may also appeal a dismissal of an

arbitration request to the Association's Board of Directors. The Directors review the materials submitted to the Committee and can uphold or overturn the Grievance Committee's dismissal.

Professional Standards Committee

The function of this Committee is to hold ethics and arbitration hearings. If the Respondent(s) has not already been requested to reply to your complaint, they will be asked to do so at this time. A hearing will then be scheduled and you will be notified of the date, time and place of the hearing. These hearings provide an opportunity for the Complainant and the Respondent to explain "their side of the story" by presenting testimony and witnesses, if any.

Once all the facts have been presented, a Hearing Panel, consisting of Association members chosen on the basis of their experience, temperament and objectivity, will determine whether the Code of Ethics has been violated, or, in the case of arbitration, how the dispute should be settled.

You will be informed by the Association about each step of this process as it occurs. You will also be given instructions about the hearing procedures prior to the hearing. **The entire process will usually take a minimum of 90 days, but may take longer.**

If you have any questions relating to filing on ethics complaint or request for arbitration, please call the Manager of Professional Standards at 561-997-8266.

The terms Realtor® and Realtors® are registered collective membership marks which may only be used by real estate professionals who are members of the National Association of Realtors® and who subscribe to its strict Code of Ethics.



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