

Citation Policy and Schedule of Fines

Adopted on June 16, 2016

Initial Review by Grievance Committee and Citation Panel

- I. When the Naples Area Board of REALTORS® (“NABOR”) Grievance Committee receives a written ethics complaint, it will review the complaint consistent with Part Three, Sections 19 and 20 of the current NAR *Code of Ethics and Arbitration Manual* (“COEAM”). The Grievance Committee may add or delete articles or respondents at this stage in the proceedings consistent with the procedures set forth in the COEAM.
- II. If the Grievance Committee determines that the complaint should be forwarded for a hearing, the Grievance Committee will forward the complaint to NABOR’s Professional Standards Administrator to determine if the complaint includes alleged violations covered by NABOR’s Citation Schedule, i.e., if there is a “citable offense”.
 - A. If the complaint does not include alleged violations included in NABOR’s Citation Schedule, or if the complaint includes some alleged violations covered by NABOR’s Citation Schedule and some alleged violations that are not, the complaint shall be referred to NABOR’s Professional Standards Committee for a hearing consistent with the policies and procedures set forth in the COEAM for an ethics hearing.
 - B. If the complaint includes *only* alleged violations included in NABOR’s Citation Schedule, NABOR’s Professional Standards Administrator will issue a citation and impose discipline consistent with NABOR’s Citation Schedule. In the event NABOR’s Professional Standards Administrator determines the conduct described in the complaint is sufficiently egregious to warrant a hearing, rather than a citation, the complaint shall be referred to NABOR’s Professional Standards Committee for an ethics hearing consistent with the policies and procedures set forth in the COEAM.
 - C. When an ethics complaint, and an arbitration request, arising out of the same facts and circumstances are filed at the same time, the arbitration hearing shall be held first, and the citation(s) issued or ethics hearing held after the conclusion of the

arbitration hearing consistent with Professional Standards Policy Statement #35, Separation of Ethics Complaint and Arbitration Request found in the COEAM.

Issuance of Citations

- I. Citations will be emailed to respondents. A copy of the citation shall also be emailed to the REALTOR® principal of respondents' office. If a respondent changes firms before or after the complaint is filed but before the citation is issued, both the former and current REALTOR® principal of the applicable respondent will receive a copy of the citation.
 - A. NABOR's Professional Standards Administrator will prepare a written summary of the complaint and the summary will be included with the citation to give the respondent sufficient information to understand the basis of the citation.
 - B. NABOR's Citation Policy and Schedule of Fines shall include the consistent practice of allowing the identity of the complainant, and the complaint itself, to be kept confidential and unavailable to the respondent. The complainant shall be advised when filing a complaint that his/her identity will not remain confidential should a hearing be required before NABOR's Professional Standards Committee.
- II. The respondent will have a period of twenty (20) days after NABOR's transmittal of the citation to request a full due process hearing on the complaint (the "Hearing Request Period").
 - A. If the respondent does not reply within ten (10) days after NABOR's transmittal of the citation, a notice shall be issued to the respondent reminding the respondent of the deadline for requesting a hearing.
 - B. If the respondent accepts the citation in writing, or if the respondent does not request a hearing prior to the expiration of the Hearing Request Period, this shall be deemed to be a final resolution of the complaint, which shall not be appealable or subject to any further review. A citation which has been accepted by the respondent, or a citation for which the respondent does not request a hearing prior to the expiration of the Hearing Request Period, shall be referred to herein as an "Accepted Citation".
 - C. With respect to any Accepted Citation, payment must be received by NABOR from the respondent no later than five (5) days after the earlier to occur of the following: (i) the date NABOR receives written acceptance of the citation by the respondent or (ii) the expiration of the Hearing Request Period.

1. The case will be deemed to be closed upon receipt of payment, and written notice will be provided to the complainant that an Accepted Citation has been issued and paid.
 2. A respondent's failure to pay the citation amount within the time specified in subsection C.1., above, will result in the automatic suspension of NABOR membership, including all membership rights and privileges and denial of all NABOR services, with no action required by the Board of Directors until the citation has been paid. Additionally, failure to pay the citation amount within five (5) days will result in the automatic termination of MLS until such time as the citation is paid with no action required by the Board of Directors.
- D. If the respondent requests a hearing within the Hearing Request Period, the complaint shall be referred to the Professional Standards Committee for a 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 *COEAM*. 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 Part Four, Section 21(f)(3) in the *COEAM* shall apply.

Limitations

- I. Any REALTOR® is limited in the number and type of citations that he/she may receive, according to the following rules:
 - A. No more than two (2) citations will be issued to a REALTOR® member within any consecutive twelve (12) month period, starting on the date the first complaint was filed, at NABOR.
 - B. No more than three (3) citations will be issued to a REALTOR® member within any consecutive thirty-six (36) month period, starting on the date the first complaint was filed, at NABOR.
 - C. No additional citations are permitted where the cumulative fine for the citations issued would be more than \$5,000 in any three (3) year period at NABOR.
 - D. NABOR has elected to adopt an escalating fine schedule for repeat citations. NABOR's Professional Standards Administrator may only consider past Accepted Citations for the particular conduct alleged in the complaint.

- II. The fact that a respondent has previously been issued a citation for any violation – whether or not it was accepted and/or 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. A hearing panel may consider past Accepted Citations for the respondent for the purpose of determining appropriate discipline as provided in Subsection IV below.
- III. Citations will not be considered in any publication of violations should such rules be adopted by NABOR.
- IV. Where a hearing panel finds a violation of the Code of Ethics after a hearing, it may consider past Accepted Citations in determining an appropriate sanction only if the citation was issued for the same violation at issue in the hearing. By way of example, if an Accepted 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. Hearing panels will not be informed of past Accepted Citations for other violations.
- V. NABOR’s Professional Standards Administrator 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 Board of Directors, but will not include details about the complaints, nor identify the complainants or respondents.

Schedule of Fines

	Applicable Article and Standard of Practice	Fine (1 st Offense)	Fine (2 nd Offense)	Fine (3 rd Offense)
Article 1				
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	\$250	\$1,000	\$1,750
Failure to submit offers and counter-offers objectively and as quickly as possible	Article 1, supported by Standard of Practice 1-6	\$1,000	\$1,750	\$2,250
Failure to advise sellers/landlords of information specified in Standard of Practice 1-12 prior to entering into a listing contract	Article 1, supported by Standard of Practice 1-12	\$250	\$1,000	\$1,750
Failure to advise buyers/tenants of information specified in Standard of Practice 1-13 prior to entering into a buyer/tenant agreement	Article 1, supported by Standard of Practice 1-13	\$250	\$1,000	\$1,750
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	Article 1, supported by Standard of Practice 1-16	\$1,000	\$1,750	\$2,250
Article 3				
Failure to communicate a change in compensation for cooperative services prior to the time that REALTOR® submits an offer to purchase/lease the property	Article 3, supported by Standard of Practice 3-2	\$250	\$1,000	\$1,750

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	Article 3, supported by Standard of Practice 3-2	\$250	\$1,000	\$1,750
Failing to disclose existence of dual or variable rate commission arrangements	Article 3, supported by Standard of Practice 3-4	\$250	\$1,000	\$1,750
Failure to disclose to cooperating brokers differential that would result in dual or variable rate commission arrangement if sale/lease results through efforts of seller/landlord	Article 3, supported by Standard of Practice 3-4	\$250	\$1,000	\$1,750
Failing to disclose existence of accepted offers, including offers with unresolved contingencies, to cooperating brokers	Article 3, supported by Standard of Practice 3-6	\$750	\$1,250	\$2,000
Misrepresenting the availability of access to show or inspect a listed property	Article 3, supported by Standard of Practice 3-8	\$750	\$1,250	\$2,000
Providing access to listed property on terms other than those established by the owner or the listing broker	Article 3, supported by Standard of Practice 3-9	\$1,000	\$1,750	\$2,250
Article 4				
Failing to disclose REALTOR®'s ownership or other interest in writing to the purchaser or their representative	Article 4 (second sentence)	\$750	\$1,250	\$2,000
Article 5				
Providing professional services without disclosing REALTOR®'s present interest in property	Article 5 (limited to present interest, not contemplated)	\$1,000	\$1,750	\$2,250

Article 6				
Accepting any commission, rebate, or profit on expenditures without client's knowledge or consent	Article 6 (first paragraph)	\$250	\$1,000	\$1,750
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)	\$750	\$1,250	\$2,000
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	Article 6, supported by Standard of Practice 6-1	\$1,000	\$1,750	\$2,250
Article 12				
Failing to present a true picture in real estate communications and advertising	Article 12	\$250	\$1,000	\$1,750
Failing to disclose status as real estate professional in advertising and other representations	Article 12	\$750	\$1,250	\$2,000
Failure to provide all terms governing availability of a "free" product or service in an advertisement or other representation	Article 12, supported by Standard of Practice 12-1	\$250	\$1,000	\$1,750
Failure to disclose potential to obtain a benefit from third party when REALTOR® represents their services as "free" or without cost	Article 12, supported by Standard of Practice 12-2	\$250	\$1,000	\$1,750

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	Article 12, supported by Standard of Practice 12-3	\$250	\$1,000	\$1,750
Advertising property for sale/lease without authority of owner or listing broker	Article 12, supported by Standard of Practice 12-4	\$1,000	\$1,750	\$2,250
Failing to disclose name of firm in advertisement for listed property	Article 12, supported by Standard of Practice 12-5	\$250	\$1,000	\$1,750
Failing to disclose status as both owner/landlord and REALTOR® or licensee when advertising property in which REALTOR® has ownership interest	Article 12, supported by Standard of Practice 12-6	\$750	\$1,250	\$2,000
Falsely claiming to have “sold” property	Article 12, supported by Standard of Practice 12-7	\$1,000	\$1,750	\$2,250
Failure to take corrective action when it becomes apparent that information on a REALTOR®’s website is no longer current or accurate	Article 12, supported by second sentence of Standard of Practice 12-8	\$250	\$1,000	\$1,750
Failure to disclose firm name and state of licensure on REALTOR® firm website	Article 12, supported by Standard of Practice 12-9	\$750	\$1,250	\$2,000
Misleading consumers through deceptive framing, manipulating content, deceptively diverting internet traffic, or presenting other’s content without attribution or permission	Article 12, supported by Standard of Practice 12-10	\$1,000	\$1,750	\$2,250
Registering or using of deceptive URL or domain name	Article 12, supported by Standard of Practice 12-12	\$750	\$1,250	\$2,000

Representing that the REALTOR® has a designation, certification, or other credential they are not entitled to use	Article 12, supported by Standard of Practice 12-13	\$750	\$1,250	\$2,000
Article 16				
Conditioning submission of a buyer's offer on additional compensation from a listing broker	Article 16, supported by Standard of Practice 16-16	\$750	\$1,250	\$2,000
Placing for sale/lease sign on property without permission of seller/landlord	Article 16, supported by Standard of Practice 16-19	\$750	\$1,250	\$2,000