

FILING AN ETHICS COMPLAINT WITH THE MINNESOTA ASSOCIATION OF REALTORS®

BACKGROUND: The Code of Ethics imposes high, ethical standards on members of the REALTOR® organization. The Minnesota Association of REALTORS® is responsible for enforcing the Code of Ethics throughout the state. Anyone who believes a REALTOR® has acted in an unethical manner may file a complaint. We take this duty very seriously and your issues and concerns will be dealt with in accordance with policies and procedures established by the National Association of REALTORS®. We've produced this brochure to give you some insight and better understand the process.

Many ethics complaints result from a misunderstanding or a failure in communication. We encourage you to make reasonable efforts to discuss your issues and concerns with your REALTOR® or a principal broker or manager of the firm. If these efforts are not fruitful, use the forms accompanied with this information to file a formal complaint.

You will want to keep in mind that:

- Only REALTORS® are subject to the Code of Ethics of the National Association of REALTORS®. If the real estate professional you are dealing with is not a REALTOR®, your only recourse may be through the Minnesota Department of Commerce.
- The Minnesota Association of REALTORS® can only determine whether the Code of Ethics has been violated, not whether the law or real estate regulations have been broken. Those decisions can be made only by the licensing authorities at the Minnesota Department of Commerce or the courts.

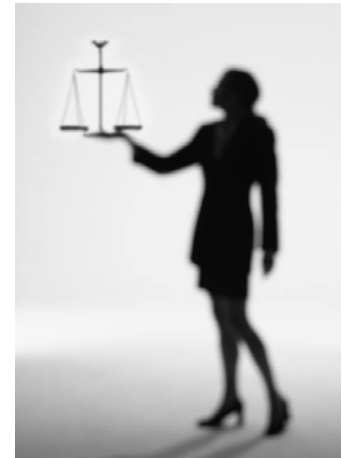
FILING AN ETHICS COMPLAINT:

- Ethics complaints must be filed within one hundred eighty (180) days from the time the complainant knew (or reasonably should have known) that potentially unethical conduct took place.
- The REALTORS® Code of Ethics consists of seventeen (17) Articles. The duties imposed by the Articles are explained in the accompanying booklet.
- Your complaint must include a narrative summary of the circumstances that lead you to believe the Code may have been violated and must cite one or more of the Articles of the Code. Copies of contracts and supporting documentation that support the claim should also be included.



INITIAL REVIEW:

- When your complaint is received, it will be reviewed by our Grievance Committee. It's job is to determine if the allegations made, if taken as true, would support a violation of the Article(s) cited in the complaint. This Committee determines if the complaint was timely and properly filed and warrants further investigation.
- If the Grievance Committee dismisses your complaint, it does not mean that they do not believe you. Rather, it means that they do not feel that your allegations would support a Hearing Panel's conclusion that the Article(s) cited in your complaint had been violated. If your complaint is dismissed, you can appeal that dismissal to a Tribunal.
- If the Grievance Committee forwards your complaint for a hearing, it does not mean they have decided the Code has or has not been violated. Rather, it means they feel if what you allege in your complaint is found to have occurred, the Hearing Panel will address the issue and take appropriate action.



PREPARING FOR THE HEARING:

- We'll provide an outline of the hearing process when information is sent and you have confirmed a hearing date and time. Take a few minutes to familiarize yourself with the hearing procedures. We'll provide information about challenging panel members, your right to counsel, calling witnesses, and the burdens and standards of proof that apply.
- Complainants have the ultimate responsibility (burden) of proving that a violation has occurred. The standard of proof that must be met is "clear, strong and convincing" evidence which is defined as "that measure or degree of proof which will produce a firm belief or conviction as to the allegations sought to be established."
- Be sure that your witnesses and counsel (if any) will be available on the day of the hearing. Continuances are a privilege – not a right.
- Have all your documents and other evidence that you need to present your case. Organize your presentation in advance. Know what you are going to say and be prepared to demonstrate what happened and **how you believe the Code was violated.**

AT THE HEARING:

- Understand and appreciate that panel members are REALTORS® who are unpaid volunteers giving their time. They have been trained in the interpretations of the Code of Ethics and the hearing process. Their objective is to be fair, unbiased, and impartial. They must determine, based on the

evidence and testimony presented to them, what actually occurred and whether the facts support a finding that the Article(s) cited have been violated.

- Hearing Panels cannot conclude that an Article of the Code has been violated unless that Article(s) is specifically cited in the complaint.
- Keep your presentation concise, factual and to the point. Your task is to demonstrate what happened (or what should have happened but did not), and how your facts support the claim of a violation of the Article(s) cited.
- Hearing Panels base their decisions on the evidence and testimony presented during the hearing. If you have information relevant to the issue(s) under consideration, be sure to bring it up during your presentation.
- Recognize that different people can witness the same event and have a different recollection about what they saw. The fact that a respondent or their witness recalls things differently than you does not mean they are not telling the truth as they recall events. It is up to the Hearing Panel, in the findings of fact that will be part of their decision, to determine what actually happened.
- The Hearing Panel will pay careful attention to what you say and how you say it. An implausible account does not become more believable through repetition or volume.
- The hearing process is to some degree, unavoidably confrontational. An ethics complaint has potential to be viewed as an attack on a respondent's integrity and professionalism. For the enforcement process to function properly, it is imperative for all parties, witnesses, and panel members to maintain the appropriate decorum.



AFTER THE HEARING:

- When you receive the Hearing Panel's decision, review it carefully.
- Findings of fact are the conclusions of the impartial members based on their reasoned assessment of all of the evidence and testimony presented during the hearing.
- If you believe the hearing process was seriously flawed to the extent you were denied a full and fair hearing, there are appellate procedures that can be invoked. The fact that a Hearing Panel found no violation is not in itself appealable.
- Refer to information that will be included with the Hearing Panel's decision on the bases and time

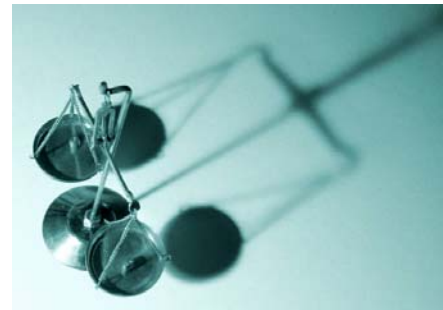
limits for appealing decisions or requesting a rehearing. Rehearings may be granted only when newly discovered information comes to light

- ◆ which could not reasonably have been discovered and produced at the original hearing and,
 - ◆ which might have had a bearing on the Hearing Panel's decisions.
- Appeals brought by ethics respondents must be based on
 - ◆ a perceived misapplication or misinterpretation of the Code of Ethics of one or more of the Articles,
 - ◆ a procedural deficiency or failure of due process, or
 - ◆ the nature or gravity of the discipline imposed by the Hearing Panel.

Appeals brought by ethics complainants are limited to procedural deficiencies or failure of due process that may have prevented a fair and full hearing.

DISCIPLINARY ACTION:

- When a REALTOR® has been found in violation of the Code of Ethics, a Hearing Panel must impose disciplinary action. Typical forms of disciplinary action includes attendance at classes or seminars designed to increase REALTORS® understanding of their ethical duties or other responsibilities. REALTORS® may also be fined, reprimanded or their membership can be suspended or terminated for serious or repeat violations. The Minnesota Association of REALTORS® cannot require REALTORS® to pay money to parties filing ethics complaints; cannot award “punitive damages” for violations of the Code and cannot suspend or revoke a real estate professional's license.
- The primary emphasis of discipline for ethical violations is educational and to create a heightened awareness of an appreciation for the duties the Code imposes. At the same time, more severe forms of discipline, including fines, suspension, probation or termination of membership may be imposed for serious or repeated violations.
- All decisions of Hearing Panels that are not appealed are subject to a final ratification by a Tribunal of the Board of Directors.



We hope you have found this to be informative and has provided you with an understanding of the complaint process that is provided by the Minnesota Association of REALTORS®.

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