



Ethical Complaint Form

Filed: _____

ETHICS COMPLAINT to the Grievance Committee of the Greater Lansing Association of REALTORS®

Complainant(s)	Respondent(s)

Complainant(s) charge(s):

An alleged violation of Article(s) _____ of the Code of Ethics or other membership duty as set forth in the Bylaws of the Association in Article VI, Section 2 and alleges that the above charge(s) (is/are) supported by the attached statement, which is signed and dated by the complainant(s) and which explains when the alleged violation(s) occurred and, if a different date, when the complainant(s) first knew about the alleged violations.

This complaint is true and correct to the best knowledge and belief of the undersigned and is filed within one hundred (180) days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence or within one hundred eighty (180) days after the conclusion of the transaction, or event, whichever is later.

Date(s) alleged violation(s) took place: _____

Date(s) you became aware of the facts on which the alleged violation(s) (is/are) based: _____

Under the penalties of perjury, I (we) declare that to the best of my (our) knowledge and belief, my (our) allegations in this complaint are true. Are the circumstances giving rise to this ethics complaint involved in civil or criminal litigation or in any proceeding before the state real estate licensing authority or any other state federal regulatory or administrative agency? _____ Yes _____ No

You may file an ethics complaint in any jurisdiction where a REALTOR® is a member or MLS participant. Note that the REALTORS® Code of Ethics, Standard of Practice 14-1 provides, in relevant part, "REALTORS® shall not be subject to disciplinary proceeding in more than one Board of REALTORS® . . . with respect to alleged violations of the Code of Ethics relating to the same transaction or event."

Have you filed, or do you intend to file, a similar or related complaint with another Association(s) of REALTORS®? _____ Yes _____ No Date(s) filed: _____

If so, name of other Association(s): _____

I understand that should the Grievance Committee dismiss this ethics complaint in part or in total, that I have twenty (20) days from transmittal of the dismissal notice to appeal the dismissal to the Board of Directors.

COMPLAINANT(S):

(Type/Print)

(Signature)

(Type/Print)

(Signature)

(Type/Print)

(Signature)

ADDRESS: _____

PHONE: _____

EMAIL: _____



Before You File an Ethics Complaint

Michigan Realtors® Code of Ethics and Arbitration Manual (Appendix X to Part Four)

Background

Boards and Associations of REALTORS® are responsible for enforcing the REALTORS® Code of Ethics. The Code of Ethics imposes duties above and in addition to those imposed by law or regulation which apply only to real estate professionals who choose to become REALTORS®.

Many difficulties between real estate professionals (whether REALTORS® or not) result from misunderstanding, miscommunication, or lack of adequate communication. If you have a problem with a real estate professional, you may want to speak with them or with a principal broker in the firm. Open, constructive discussion often resolves questions or differences, eliminating the need for further action.

If, after discussing matters with your real estate professional or a principal broker in that firm, you are still not satisfied, you may want to contact the local Board or Association of REALTORS®. **In addition to processing formal ethics complaints against its REALTOR® members, many boards and associations offer informal dispute resolving processes (e.g., ombudsman, meditation, etc.). Often parties are more satisfied with informal dispute resolution processes, as they are quicker, less costly, and often help repair damaged relationships. (Revised 11/15)**

If, after taking these steps, you still feel you have a grievance, you may want to consider filing an ethics 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 (or their broker) you are dealing with is not a REALTOR®, your only recourse may be the state real estate licensing authority or the courts.
- Boards and Associations of REALTORS® determine whether the Code of Ethics has been violated, not whether the law or real estate regulations have been broken. Those decisions can only be made by the licensing authorities or the courts.
- Boards of REALTORS® can discipline REALTORS® for violating the Code of Ethics. Typical forms of discipline include attendance at courses and seminars designed to increase REALTORS® understanding of the ethical duties or other responsibilities of real estate professionals. **Additional examples of authorized discipline are a letter of reprimand and appropriate**

finer. For serious or repeated violations, a REALTOR®'s membership can be suspended or terminated. Boards and Associations of REALTORS® cannot require REALTORS® to pay money to parties filing ethics complaints; cannot award “punitive damages” for violations of the Code of Ethics; and cannot suspend or revoke a real estate professional’s license. **(Revised 11/15)**

- The primary emphasis of discipline for ethical lapses is educational, to create a heightened awareness of and appreciation for the duties the Code imposes. At the same time, more severe forms of discipline, including fines and suspension and termination of membership may be imposed for serious or repeated violations.

Filing an Ethics Complaint

The local Board or Association of REALTORS® can provide you with information on the procedures for filing an ethics complaint. Here are some general principles to keep in mind.

- Ethics complaints must be filed with the local Board or Association of REALTORS® within one hundred eighty (180) days from the time a complainant knew (or reasonably should have known) that potentially unethical conduct took place (unless the Board’s informal dispute resolution processes are invoked, in which case the filing deadline will momentarily be suspended).

- The REALTORS® Code of Ethics consists of seventeen (17) Articles. The duties imposed by many of the Articles are explained and illustrated through accompanying Standards of Practice or case interpretations.

- Your complaint should include a narrative description of the circumstances that lead you to believe the Code of Ethics may have been violated.

- Your complaint must cite one or more of the seventeen (17) Articles of the Code of Ethics which may have been violated. Hearing Panels decide whether the Articles expressly cited in complaints were violated—not whether Standards of Practice or case interpretations were violated. (Amended 11/11)

- The local Board or Associations of REALTORS®, Grievance Committee may provide technical assistance in preparing a complaint in proper form and with proper content.

Before the Hearing

- Your complaint will be reviewed by the local Board or Association’s Grievance Committee. Their job is to review complaints to determine if the allegations made, if taken as true, might support a violation of the Article(s) cited in the complaint.

- If the Grievance Committee dismisses your complaint, it does not mean 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. You may want to review your complaint to see if you cited an Article appropriate to your allegations.

- If the Grievance Committee forwards your complaint for hearing, that does not mean they have decided the Code of Ethics has been violated. Rather, it means they feel that if what you allege in your complaint is found to have occurred by the Hearing Panel, that panel may have reason to find that a violation of the Code of Ethics occurred.

- If your complaint is dismissed as not requiring a hearing, you can appeal that dismissal to the Board of Directors of the local Board or Association of REALTORS®.

Preparing for the Hearing

- Familiarize yourself with the hearing procedures that will be followed. In particular you will want to know about challenging potential 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 the Code of Ethics has been violated.

The standard of proof that must be met is “clear, strong and convincing,” defined as “. . . that measure or degree of proof which will produce a firm belief or conviction as to the allegations sought to be established.” Consistent with American jurisprudence, respondents are considered innocent unless proven to have violated the Code of Ethics.

- Be sure that your witnesses and counsel will be available on the day of the hearing. Continuances are a privilege—not a right.
- Be sure you have all the documents and other evidence 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 of Ethics was violated.

At the Hearing

- Appreciate that panel members are unpaid volunteers giving their time as an act of public service. Their objective is to be fair, unbiased, and impartial; to determine, based on the evidence and testimony presented to them, what actually occurred; and then to determine whether the facts as they find them support a finding that the Article(s) charged 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 the facts support a violation of the Article(s) charged in the complaint.
- 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 differing recollections about what they saw. The fact that a respondent or their witness recalls things differently 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 through volume.

- You are involved in an adversarial process that is, to some degree, unavoidably confrontational. Many violations of the Code of Ethics result from misunderstanding or lack of awareness of ethical duties by otherwise well-meaning, responsible real estate professionals. 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 appropriate decorum.

After the Hearing

- When you receive the Hearing Panel's decision, review it carefully.
- Findings of fact are the conclusions of impartial panel members based on their reasoned assessment of all of the evidence and testimony presented during the hearing. Findings of fact are not appealable.
- 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 appealable.
- Refer to the procedures used by the local Board or Association of REALTORS® for detailed information on the bases and time limits for appealing decisions. (Revised 11/14)

(a) which could not reasonably have been discovered and produced at the original hearing and

(b) which might have had a bearing on the Hearing Panel's decision.

Appeals brought by ethics respondents must be based on

(a) a perceived misapplication or misinterpretation of one or more Articles of the Code of Ethics,

(b) a procedural deficiency or failure of due process, or

(c) the nature or gravity of the discipline proposed by the Hearing Panel.

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

Conclusion

- Many ethics complaints result from misunderstanding or a failure in communication. Before filing an ethics complaint, make reasonable efforts to communicate with your real estate professional or a principal broker in the firm. If these efforts are not fruitful, the local Board or Association of REALTORS® **can share options for dispute resolution, including the procedures and forms necessary to file an ethics complaint.** (Revised 11/15)



National Association of REALTORS® *Code of Ethics and Arbitration Manual provides:*

WHO CAN FILE AN ETHICS COMPLAINT AGAINST A REALTOR®?

- Any person, whether a member or not, having reason to believe that a member is guilty of any conduct subject to disciplinary action, may file a complaint in writing with the security of the Association of Realtors®, dated and signed by the complainant, stating the facts on which it is based, provided that the complaint is filed within one hundred eighty (180) days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence.

The complaint should contain the detail facts and dates, but should avoid opinions, recriminations and personalities. Complaints must be typewritten.

If necessary, the association may offer assistance in the way of an association member to advise you about the process. This member will not become your advocate but will advise only on procedure.

BASIS FOR FILING AN ETHICS COMPLAINT

The basis for filing an ethics complaint against a REALTOR® should be an allegation by the complainant that a REALTOR® violated one or more of the Articles of the Code of Ethics of the National Association of REALTORS®. A charge of violating the law or the real estate regulations of the state is not a matter that can be considered by the association of REALTORS®.

COMPLAINTS REFERRED TO THE GRIEVANCE COMMITTEE

The Grievance Committee is charged with preliminary evaluation and assessment of whether complaints should be dismissed or scheduled for hearing.

The Grievance Committee does not hold hearings or make decisions regarding ethical violations. Rather, the Grievance Committee conducts a review of the complaint and makes such investigation as deemed necessary to determine whether the complaint could be construed as a Code violation if the complaint is taken as true on its face. If so, the Grievance Committee will refer it to the Professional Standards Committee for hearing.

APPEAL TO THE BOARD OF DIRECTORS

Dismissal of a complaint by the Grievance Committee may be appealed to the Board of Directors within a time-frame specified by the association's bylaws.

Only materials considered by the Grievance Committee can be reviewed by the Directors with the appeal. The parties do not have the right to appear before the Board of Directors. The Directors may affirm the Grievance Committee's dismissal or may refer the matter for hearing.

GRIEVANCE COMMITTEE MAY AMEND A COMPLAINT

The Grievance Committee may conclude that one or more of the cited Article(s) are improperly included in a complaint and delete such Article(s). If it feels an Article should be added to a complaint, it may do so if the complainant agrees.

If a complaint is referred by the Grievance Committee for hearing, the secretary notified the respondent of the complaint, using appropriate forms and instructions, and oversees the procedures.

DUE PROCESS AND RIGHTS OF BOTH PARTIES

A complainant may be frustrated by what appears to be unnecessary delay. However, the association must ensure due process.

At the hearing, each party will have the opportunity to present its testimony, bring witnesses and evidence, question the other parties and witnesses, have an attorney present, and may be questioned by the other party and members of the panel.

It is important to understand that the association does not process legal complaints, nor does it award damages or cancel a real estate license.

Also, if the complaint is involved in civil or criminal litigation or in a proceeding before the state real estate licensing authority or any other state or federal regulatory or administrative agency, the association may not be able to take action until these proceedings have been resolved. These will be given to Association Legal Counsel for review and guidance.

After the hearing, the parties will be notified in writing of the decision of the panel.

REHEARINGS AND APPEALS

After an ethics hearing is concluded, the complainant or respondent can petition for a rehearing solely on the basis of new evidence that could not have been discovered and produced at the original hearing in the exercise of reasonable diligence.

The complainant also has a right of appeal limited solely to alleged failures of due process. The respondent has a wider basis for appeal, including misapplication or misinterpretation of an Article(s), appropriateness of the recommended sanction, failure of due process, or other valid bases.

DECISION OF BOARD OF DIRECTORS IS FINAL

The Directors may adopt or modify the recommendation of the hearing panel, including the discipline proposed. The Directors may reduce the recommended discipline or refer the matter back to the panel for reconsideration. The Directors may dismiss the recommendation of the hearing panel if they feel it is not supported by the panel's finding of fact.

The decision of the Board of Directors is final, and there is no appeal to the state association or to the National Association of REALTORS®. **(Revised January 2010)**