

- 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. Many violations of the Code result from misunderstanding or lack of awareness of ethical duties by otherwise well-meaning, responsible real estate professionals. An ethics complaint has the 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 itself 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 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 are granted only when newly discovered information comes to light and must be that:
 - 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 upon:
 - 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 include 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 reward "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 in the amount of \$100 to \$5,000, suspension, probation or termination of membership may be imposed for serious or repeated violations.

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®.



© 2009
 Minnesota Association of REALTORS®
 5750 Lincoln Drive
 Edina, MN 55436
 (952) 935-8313 (800) 862-6097
 www.mnrealtor.com

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 or unprofessional 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 understanding of the process.

Many ethics complaints result from 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 or the court system.
- The Minnesota Association of REALTORS® can only determine whether the Code of Ethics has been violated. This is not the venue to determine whether there has been adherence to the law or real estate regulations. The Minnesota Department of Commerce or the court system are the only bodies which have the jurisdiction to determine such issues and therefore you must work with the appropriate governing authority if your concern relates to the law or real estate regulation. 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 (postmarked) 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.

- A narrative summary of the circumstances that lead you to believe the Code may have been violated should be attached to your Complaint. In addition, please cite one or more of the Articles of the Code.

INITIAL REVIEW:

- When your complaint is received, it will be reviewed by our Grievance Committee. Their job is to determine whether the allegations made, if taken as true, would support a violation of the Article(s) cited in the complaint. The Committee will determine if the complaint warrants further investigation.
- The Grievance Committee has the ability to dismiss your complaint if they do not believe that the allegations would support a Hearing Panel's conclusion that the Article(s) cited in your complaint had been violated.
- The Grievance Committee also has the ability to forward your complaint to a hearing if they determine that the Hearing Panel will address the issue alleged in your complaint and take appropriate action if that alleged action has indeed occurred.

PREPARING FOR THE HEARING:

- We'll provide information and an outline of the hearing process after 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" 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 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 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 a respondent's 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 if a violation occurred.

