



The Code of Ethics - “Summarized”

A. Duties to Clients/Customers (Articles 1-9)

- **Article 1.** Fiduciary Duties, Agency – put your client’s interests primary; be honest with every party. (Pay particular attention to the Standards of Practice.)
- **Article 2.** Disclosure Issues – exaggeration, misrepresentation, and concealment are to be avoided.

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A. Duties to Clients/Customers (Articles 1-9) (cont'd)

- **Article 3.** Cooperation and Compensation – REALTORS® shall not misrepresent the availability of property to show and shall provide timely information.
- **Article 4.** Self Dealing – disclose in writing you are licensed and intend to purchase any interest for yourself, your family, or an entity you are part of.

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A. Duties to Clients/Customers (Articles 1-9) (cont'd)

- **Article 5.** Self Dealing – prior to rendering opinion of value or other service, inform seller in writing of your interest to purchase.
- **Article 6.** Self Dealing – no secret profit; all money disclosed to client.

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A. Duties to Clients/Customers (Articles 1-9) (cont'd)

- **Article 7.** Dual Compensation – disclose to all parties and obtain client consent.
- **Article 8.** Trust Account Records--no comingling
- **Article 9.** Clear Written Documentation – agreements clear and in writing; give copy at signing to clients.

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B. Duties to the Public (Articles 10-14)

- **Article 10.** Fair Housing – provide equal professional services, employment opportunities, and information.
- **Article 11.** Professional Competency – meet the standard of care for each specialization in which you provide service.

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B. Duties to the Public (Articles 10-14)

- **Article 12.** Truth in Advertising – present a true and accurate picture in all advertising and in all real estate communications, including social media and MLS entries.
- **Article 13.** Unauthorized Practice of Law – just don’t do it! Recommend competent real estate counsel.
- **Article 14.** Duty to Cooperate with Professional Standards.

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c. Duties to other REALTORS® (Articles 15-17)

- **Article 15.** Disparaging Other Real Estate Professionals – restrictions on false, reckless, or misleading statements about real estate professionals, including in social media.
- **Article 16.** Interference with exclusive Agency/Client Relationship of another REALTOR®.

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c. Duties to other REALTORS® (Articles 15-17) (cont'd)

- **Article 17.** Duty to Arbitrate Real Estate and Commission Disputes. (See also MLS Rules)

Reasons for Development

- ◎ Considerations when developing program
 - Members are reluctant to file complaints
 - Lack of proof
 - Amount of time to process
 - Insufficient penalties
 - Fear of retaliation
 - Procedural process is seen as cumbersome, complicated & time consuming
 - Program needs to be accessible and encouraging

Reasons for Development

- ◎ RED Program is Pacific West's innovative response to ever-increasing concerns about ethical behavior in the industry
 - Violations of Code of Ethics and MLS Rules, unprofessional behavior, and lack of reporting occur regardless of what the current market-driven issue may be
 - Need for a flexible and expedited program to resolve problems as they arise
 - Program must assist members to encourage reporting

Reasons for Development

- ◎ Believing that there is a need to make Code of Ethics enforcement more flexible and to encourage members to act, Pacific West's Board of Directors formed a Task Force to study these issues. A report and recommendations were submitted to the Board of Directors after study and with NAR consent. The program has been "tested" and is now ready for PWR members.

Components to Program

- ◎ Education
- ◎ Notice Letters
- ◎ Tracking
- ◎ Expansion of Anonymous Complaint Program
- ◎ Expansion of Ombudsman Program
- ◎ Voluntary Meet and Confer
- ◎ Cooperation with C.A.R.'s Efforts

Seven Components to Program

◎ Education:

- Updates & emphasis re: current market issues, Code of Ethics and MLS Rules at member Orientation
- Newsletter: hot topics/recent issues
- Emphasize ethics & rules adherence at all classes & webinars

Seven Components to Program

◎ Notice Letters:

- Letter to employing broker will be sent when there is a clear violation
 - Encourage broker to act affirmatively
- Letter to agent advising him or her of complaint and that the Association may be keeping watch on his or her activities.
- Other letters or notifications as needed.

Seven Components to Program

◎ Tracking:

- Association database will track multiple calls re: particular agent, broker, or office
 - Database may serve as evidence for the Grievance Committee to act as complainant
 - Members can testify even if not the complainant
 - Association stays in compliance with Article 14 regarding confidentiality and evidence

Seven Components to Program

- ◎ Expansion of Anonymous Complaint Program:
 - Association will determine from caller:
 - Complete anonymity requested
 - File formal complaint—best course of action
 - Willingness to testify (but not file)
 - Reminder of availability of Ethics Advocate
 - Transaction-specific complaint:
 - Letter to caller regarding what can/can't be done
 - Questionnaire

Seven Components to Program

- ◎ Expansion of Ombudsman Program:
 - Include matters for Code of Ethics and MLS Rule violations
 - Seasoned Professional Standards members appointed to act as Ombudsman
 - Increased opportunities for resolution

Seven Components to Program

- ◎ Voluntary Meet and Confer:
 - Pre-complaint meet and confer with ombudsman prior to filing of complaint
 - Pre-hearing meet and confer with ombudsman prior to hearing
 - Benefits:
 - Increased chance of resolution
 - Decreased number of complaints and hearings

Seven Components to Program

◎ Cooperation with New C.A.R. Programs:

- As C.A.R. and NAR develop programs, the Association will incorporate them into RED.
 - Statewide Ethics Database:
 - Admission (new and transfer members)
 - Progressive discipline
 - Publication program
 - C.A.R. Disciplinary Publication Program
 - Increase penalties
 - Effective January 1, 2014, fine for violation of Code of Ethics is \$15,000

Conclusion

REALTOR® Associations have been granted a unique opportunity to self police member behavior through the Code of Ethics and through MLS enforcement. Civil lawsuits, CalBRE actions, and even criminal actions are alternatives. The public is watching.