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PROFESSIONAL STANDARDS



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PROFESSIONAL STANDARDS NEWSLETTER

September 2023

“Only those who have learned the power of sincere and selfless contribution experience life's deepest joy: true fulfillment.” - Tony Robbins

2023 SECOND QUARTER STATISTICS

- In the second quarter of 2023, there were a total of:
 - 54 ethics complaints filed, with 22 forwarded for a hearing.
 - 4 arbitration requests filed, 2 of which were forwarded for mandatory mediation.
 - 9 ethics hearings were held and 3 arbitration hearings were held.
- Our Ombudsman Program received:
 - 3 requests. Of those 3, 2 were in the scope of the program, and both were successfully resolved.
- Our Mediation Program received:
 - 3 mediation requests. 1 mediation was held, which was unsuccessful.

PROFESSIONAL STANDARDS

Mary Lee Greason Award

Every year, the Arizona REALTORS® Professional Standards Committee awards a committee member who exhibits a passion for professional standards through exceptional service, commitment, preparation, and leadership, with the Mary Lee Greason Excellence in Professional Standards Award.

Nominations for the 2024 Mary Lee Greason Excellence in Professional Standards Award are due by November 1, 2023. Specific factors for nomination include, but are not limited to, length of service, roles in leadership positions, diversity of roles within the Professional Standards Committee, and contributions made.

If you or someone you know is worthy of receiving this award, please email your nomination to JanSteward@aaronline.com prior to November 1, 2023, including an explanation as to why the applicant should be considered. The recipient will be selected by the current Chairs of the Professional Standards Committee and the Risk Management Committee with the award being presented at the 2024 Arizona REALTORS® Professional Standards Workshop!

CHAIR TIPS

One task of a Hearing Panel Chair is to maintain order during the hearing. This can prove to be a challenging task when dealing with a difficult party. While most hearings proceed without any issues, in the event you face a difficult party that causes disruptions during the hearing, here are a few options that will help you maintain order.

Offer Reminders

- Remind the parties that each party will be given an opportunity to speak and speaking over another individual will not be tolerated.
- Remind the parties that this is a professional proceeding and name calling is unacceptable. Keep the focus on the Code of Ethics and not on personal feelings you have towards the other party.

Mute

- Ask the party to remain muted until it is their turn to speak. Staff can also manually mute the individual in Zoom.

Take a Break

- If a party becomes angry and disruptive, call for a break to allow the individual to compose themselves.

Executive Session

- If you are unsure how to proceed in a difficult situation, call for an executive session. The Panel will meet privately with staff and/or Association Counsel where you may ask for guidance.

Ask Staff for Assistance

- Association staff will place all parties in their Zoom breakout rooms. Staff will then meet with the individual causing the disruption and reiterate the hearing procedures and the behavior that is expected during the hearing process.

HEARING PANEL TIPS

This year, we have had several cases where the Respondent has waived their right to a hearing. In general, a Respondent waiving their right to a hearing is rare which means it's likely you have not encountered this situation and are unsure of the procedure when this occurs.

When the Respondent waives their right to a hearing, they must acknowledge the conduct alleged in the complaint and agree to accept discipline not to exceed a fine of \$15,000 or a suspension of more than 30 days. A hearing will not be held, but rather, the Hearing Panel will meet at 10:00 a.m. the morning of the scheduled meeting to determine whether the allegations in the complaint, as acknowledged and agreed to by the Respondent, support a violation of one or more of the Articles of the Code of Ethics based on the written narrative and evidence provided.

When deciding discipline, you will consider if the violation is a first violation for the Respondent, if the violation is relatively minor with no or little harm or injury caused to others, or if the violation is relatively serious with harm or injury caused to others. Therefore, it is very important that you read through all the evidence that was provided to ensure you understand what occurred, and how serious the issue is so that appropriate discipline is imposed.

For reference, below are possible discipline options that can be imposed for a first violation of the Code of Ethics, depending on the severity of the violation:

First violation example #1

- violation considered relatively minor, or
- little or no harm or injury caused to others, or
- violation resulted from ignorance or misunderstanding

Possible discipline:

- letter of warning
- fine of \$500 or less
- attendance at relevant education session
- any combination of the above (*Revised 11/20*)

First violation example #2

- violation considered relatively serious, or
- some harm or injury caused to others, or
- violation resulted from disregard for the Code's obligations

Possible discipline:

- letter of reprimand
- fine of \$2,000 or less
- attendance at relevant education session(s)
- any combination of the above (*Revised 11/20*)

First violation example #3

- violation considered very serious, or
- the violation was of Article 10 as interpreted by its Standards of Practice, or of Article 3 as interpreted by Standard of Practice 3-11, or

- substantial harm or injury caused to others, or
- violation resulted from disregard of the Code's obligations

Possible discipline:

- letter of reprimand
- fine of \$10,000 or less
- attendance at relevant education session(s)
- suspension for ninety (90) days or less
- any combination of the above
- termination of membership for up to three (3) years

(Revised 11/20)

The Code of Ethics and Arbitration Manual states the following:

The panel of the Professional Standards Committee will meet in executive session. Neither the complainant nor the respondent will be present. Board staff and counsel will be present as deemed necessary by the Chairperson. The initial question to be determined by the panel will be whether the allegations in the complaint, as acknowledged and agreed to by the respondent, support a violation of one or more of the Articles of the Code of Ethics. The panel shall prepare a brief, concise decision which shall include findings of fact, conclusions, and a recommendation for discipline if a violation is found. Discipline that may be imposed, if a violation is determined, may only include one or more of the following: letter of warning or reprimand, mandatory attendance at a relevant educational program, suspension for thirty (30) days, or a fine not more than \$15,000. In addition to imposing discipline, the Hearing Panel can also recommend to the Board of Directors that the disciplined member be put on probation. Probation is not a form of discipline. (Revised 11/14)

MEDIATOR TIPS

When faced with a difficult mediation where both parties seem unwilling to compromise, try focusing on what will happen if the mediation fails. Explore the negatives of a failed mediation instead of possible resolutions. If a party realizes that the outcome of proceeding to a hearing won't give them what they want, or think they want, they will be more open to alternatives. Likewise, if you walk them through the consequences of a failed mediation, they often see the value in reaching an agreement.

Discussing weaknesses in a party's case is also a great way to open their eyes to the reality that they may not get the outcome they desire by proceeding to a hearing rather than agreeing to a resolution they can live with.

OMBUDSMAN TIPS

Ombudsmen never know the outcome once they have assisted on a case file, nor do they review a case more than once, but what happens after the call? Often, ombudsmen are excellent at resolving issues and thus we are able to close a case once the appropriate calls have been made. In some situations, even after a successful resolution, the complainant may determine that more action is required. Should this happen,

the next option would be filing a formal complaint, unless it is a new issue unrelated to the previous Ombudsman request. The option to file a complaint is communicated by Sam, or potentially another ombudsman.

GRIEVANCE TIPS

Sometimes, ethics complaints could be clarified with some minor investigation. What happens when you find yourself reviewing a case that could be wrapped up with a few MLS or ADRE searches? Well, the answer is that nothing good can come from this. The Grievance Committee does not conduct investigations in any shape or form. If when reviewing a case, more information is needed to make the appropriate decision to dismiss or forward to a hearing, the best option would be to send the complaint back to the complainant and have them provide any information needed to assist in the Grievance Committee's decision. While returning a complaint is not something that happens often, it is always available as an option to ensure due process. Staff will communicate the committee's needs on your behalf and, once received, the complaint will be reviewed again.

If you have not signed up for October-December 2023 Hearing Panels, please do so [HERE](#).

Reminder

Annual Mediator/Ombudsman Training

Wednesday, October 25, 2023

Registration: 8:30-9:00 a.m.

255 East Osborn Road, Meeting Room 1

Phoenix, AZ 85012

Save the Date

Professional Standards Workshop

Wednesday, February 14, 2024

Registration: 8:15-8:45 a.m.

Desert Willow Conference Center

4340 E Cotton Center Blvd, Phoenix, AZ