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ETHICS COMPLAINT PROCESS

Background

- Boards and associations of REALTORS® are responsible for enforcing the [REALTOR® Code of Ethics](#). The Code 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®.
- The Association will determine whether the Code of Ethics has been violated but cannot determine whether the law or real estate regulations have been broken. Those decisions can only be made by the licensing authorities or courts.
- A REALTOR® is a real estate licensee who has joined the Association of REALTORS® and sworn to uphold its Code of Ethics. Not all real estate licensees are REALTORS®. Only REALTORS® are subject to the Code of Ethics of the National Association of REALTORS®. If the real estate professional (or the broker of record for his/her firm) you are dealing with is not a REALTOR®, your only recourse may be to file a complaint with the SC Department of Labor, Licensing and Regulation (LLR) which includes the South Carolina Real Estate Commission. File a complaint [here](#). If a real estate licensee is a member REALTOR® and you feel they may have violated both the Code of Ethics and License Law, you may simultaneously file both an Ethics Complaint and with LLR.
- Many difficulties between real estate professionals (whether REALTORS® or not) result from misunderstanding, miscommunication, or lack of adequate communication. Before writing your complaint attempt to resolve the issue with your real estate professional and their broker/manager and if needed through the services of the CTAR Ombudsman (teena@charlestonrealtors.com or 843 793-5202). If the issue is still unresolved, you may wish to file a complaint.
- Boards of REALTORS® disciplines 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. REALTORS® may also be reprimanded, fined, or their membership may be suspended or terminated for serious or repeated violations. 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.
- 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.
- For issues regarding money or specific actions, you should consult your attorney as soon as possible to determine possible legal remedies. SC Bar Lawyer Referral Service 1-800-868-2284. Mediation through the Charleston Trident Association of REALTORS® may be a practical option. Contact teena@charlestonrealtors.com for further information.
- THERE IS NEVER A CHARGE TO FILE AN ETHICS COMPLAINT.

How to File an Ethics Complaint

Ethics complaints must be filed with the Charleston Trident 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 association's informal dispute resolution processes are invoked in which case the filing deadline will momentarily be suspended).

1. Read the 17 Articles of the REALTOR® Code of Ethics and accompanying Standards of Practice. The duties imposed by many of the Articles are explained and illustrated through accompanying Standards of Practice. You may cite Standards of Practice to further support your Complaint. If necessary, contact the Ombudsman for assistance.
2. On the one page "Ethics Complaint Form." identify which of the 17 Article(s) of the Code of Ethics you feel may have been violated. The REALTORS® [Code of Ethics](#) consists of seventeen (17) Articles.
3. Add a typed narrative description of the circumstances which lead you to believe the Code of Ethics may have been violated. A time table of events will be helpful.
4. Add any documentation to support your Complaint.
5. eMail your Complaint form and documentation to the Professional Standards Administrator teena@charlestonrealtors.com. An email will be sent to you acknowledging receipt of your complaint and explaining what happens next. The entire process will take between 90 and 120 days.

Before the Hearing

- Your complaint will be reviewed by the association's Grievance Committee. Their job is 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 doesn't mean they don't believe you. It means they didn't feel your allegations would support a Hearing Panel's conclusion that the Article(s) cited in your complaint had been violated.
- If the Grievance Committee forwards your complaint for a hearing, it doesn't mean they've decided the Code of Ethics has been violated. It means they feel if what you allege in your complaint is found to have occurred, a Hearing Panel may have reason to find 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 Charleston Trident 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, notice requirements, 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. The right to confront witnesses and the accuser are part of the due process required in all hearings.

- Be sure you have all the documents and other evidence you need to present your case. The standard for presenting evidence is relevance. And make sure copies have been provided to the Association and the other party(ies) prior to the hearing.
- 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 provide it to the Association and the other party(ies) in advance and bring it up during your presentation.
- Recognize 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 aren't telling the truth as they recall events. It is up to the Hearing Panel, to state in the findings of fact that will be part of their decision, what they determine 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 with due process, 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 Charleston Trident Association of REALTORS® for detailed information on the bases and time limits for appealing decisions or requesting a rehearing. Rehearings are generally granted only when newly discovered evidence 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 decision.
- Appeals brought by ethics respondents must be based on 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 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.

For money or specific action goals, contact the Broker in Charge and attempt a compromise solution. If that fails, then perhaps contact the Charleston Trident Association of REALTORS® for informal assistance from the Ombudsman or informal mediation. Formal Mediation can be employed as a faster and less expensive way to help the parties reach a compromise and avoid costly litigation.



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Ethics Complaint

To the Professional Standards Division of the CHARLESTON TRIDENT ASSOCIATION OF REALTORS®

Filed _____, 20_____

Complainant(s)

Respondent(s)

Complainant(s) charge(s): An alleged violation of Article(s) _____ of the Code of Ethics Article(s), Standard(s) of Practice and/or other membership duty as set forth in the bylaws of the Charleston Trident Association of REALTORS® and alleges that the above charge(s) is supported by the attached statement, which is signed and dated by the complainants 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 eighty (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: _____. 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 or 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, "Realtor® shall not be subject to disciplinary proceeding in more than one Board of Realtor® . . . 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)? Yes No

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

I understand that should the Grievance Committee dismiss this ethics complaint in part or in total, that I have ten (10) days from transmittal of the dismissal notice to appeal the dismissal to the Board of Directors. Complainant(s):

Type/Print Name

Date

Signature

Type/Print Name

Date

Signature

Address

Phone

eMail

Attach Narrative and documentation. Return form to teena@charlestonrealtors.com, 5006 Wetland Crossing Dr. North Charleston, SC 29418 · Fax 843.793.9410 · Direct 843.793.5202