

Outline of Procedure for Ethics Hearing (To be Mailed in Advance to Both Parties)

Postponement of hearing: Postponement may be granted if there are extenuating circumstances. Requests for postponement must be made in writing. Permission can be given by the Chairperson. All parties shall be advised of the date of the rescheduled hearing.

Recording the hearing: The Association shall have all Hearings recorded by a court reporter. Parties involved in the Hearing may request a copy of the transcript. The cost of the transcript will be borne by the individual who requests it. The Association will retain the original copy and the individual(s) requesting the transcript will receive a copy. If both parties request a transcript, they will share the costs. Parties may not tape record the Hearings. The official recording for the Association shall be a court reporter only. You are also reminded that transcription of ethics proceedings can only be used for purposes of appeal or rehearing and that all other uses, including use in other ethics or arbitration hearings, is expressly prohibited.

Method and objective of procedure: The Hearing Panel shall not be bound by the rules of evidence applicable in courts of law, but shall afford all parties a full opportunity to be heard, present witnesses, and offer evidence, subject to its judgment as to relevance. To facilitate the hearing and avoid delays, all parties are requested bring ten (10) copies of all exhibits they intend to introduce at the hearing (if not already included in the Complaint or Reply). If a party has previously submitted a document as an exhibit in connection with prior correspondence, it is not necessary to submit the same document again.

Due process procedure: The hearing procedures will be:

- (1) Opening statement by Chairperson—cite authority to hear case and explain reason for hearing.
- (2) The complaint will be read into the record.
- (3) The testimony of all parties and witnesses will be sworn or affirmed. All witnesses will be excused from the hearing except while testifying.
- (4) The parties will be given an opportunity to present evidence and testimony on their behalf and they may call witnesses.
- (5) The parties and their counsel will be afforded an opportunity to examine and cross-examine all witnesses and parties.
- (6) The panel members may ask questions at any time during the proceedings.
- (7) The Chairperson may exclude any question ruled to be irrelevant or argumentative.
- (8) Each side may make a closing statement. The complainant will make the first closing statement and the respondent will make the final closing statement.
- (9) Adjournment of hearing.
- (10) The Hearing Panel will go into executive session to decide the case.

Findings in ethics hearing: The findings and recommendation for discipline, if any, shall be reduced to writing by the Hearing Panel and submitted to the Board of Directors in accordance with the procedures of Part Four, Sections 22 and 23 of the *Code of Ethics and Arbitration Manual*.

Use of counsel: A party may be represented in any ethics hearing by legal counsel or by a REALTOR® of their choosing (or both). However, parties may not refuse to directly respond to requests for information or questions addressed to them by members of the panel except on grounds of self-incrimination, or on other grounds deemed by the panel to be appropriate. In this connection, the panel need not accept the statements of counsel as being the statements of counsel's client if the panel desires direct testimony. Parties shall be held responsible for the conduct of their counsel. Any effort by counsel to harass, intimidate, coerce, or confuse the panel members or any party to the proceedings, or any action by counsel which is viewed by the panel as disruptive of the proceedings, shall be grounds for exclusion of counsel. The decision to exclude counsel for any of the foregoing reasons shall be the result of a majority vote of the members of the panel and shall be nonappealable. In the event counsel is excluded, the hearing shall be postponed to a date certain not less than fifteen (15) nor more than thirty (30) days from date of adjournment to enable the party to obtain alternate counsel provided, however, that such postponement shall not be authorized if it appears to members of the panel that the action of counsel has been undertaken by counsel to obtain a postponement or delay of the hearing.

Be advised that all matters discussed are strictly confidential.

(Revised 1-04)