

ETHICS ADVOCATE BASIC INFORMATION

Any party may be represented by legal counsel or by a REALTOR® (or both) at any ethics hearing, including reviews, even where the hearing will occur in the party's absence. If the Association has adopted the Ethics Advocate (EA) program, a sub-committee of the Professional Standards Committee, comprised of REALTORS®, will be specially trained to represent parties during the disciplinary process. The role of legal counsel or EA may include preparation for hearing, including the preparation of forms and assembly of evidence; representation at the hearing, including the making of opening and closing statements on behalf of the party represented at the hearing, examining and cross-examining witnesses, and introducing affidavits, documents and other relevant evidence, and representation at any review hearings, but does not include testifying as a witness. In the event the parties do not give fifteen (15) days notice of their intention to have legal counsel or EA representation to the Association and all other parties, the hearing may be continued, and the party giving late notice may be assessed a continuance fee.

THERE IS NO COST TO A PARTY FOR USE OF AN EA!

The complainant may request the assistance of an EA, by submitting a Request for Ethics Advocate packet (Forms D-23, D-23A & D-23B) to the Association. The EA is authorized to help the complainant draft the Complaint (Form D-1) and other forms required for the disciplinary process. In addition, the EA may represent the complainant at the hearing in a role similar to legal counsel, at the option of the complainant.

If the complainant returns the completed Request for Ethics Advocate (Form D-23), Ethics Advocate Acceptance (Form 23-A) and Ethics Advocate Communication Preference (Form D-23B), an EA is chosen from the those not challenged by the complainant, and the EA contacts the complainant before any further steps are taken. Thereafter, the complaint is processed in the normal manner.

The respondent may also request the assistance of an EA, by submitting the Request for Ethics Advocate packet (Forms D-23, D-23A & D-23B) to the Association. The EA is authorized to help the respondent draft the Response (Form D-3) and other forms required for the disciplinary process. In addition, the EA may represent the respondent at the hearing in a role similar to legal counsel, at the option of the respondent.

If the respondent returns the completed Request for Ethics Advocate (Form D-23), Ethics Advocate Acceptance (Form 23-A) and Ethics Advocate Communication Preference (Form D-23B), an EA is chosen from the those not challenged by the respondent, and the EA contacts the respondent before any further steps are taken. Thereafter, the complaint is processed in the normal manner.

PLEASE NOTE: EVEN THOUGH THE EA PERFORMS A ROLE SIMILAR TO LEGAL COUNSEL, THE EA IS NOT AN ATTORNEY AND IS NOT ALLOWED TO PRACTICE LAW.

**REQUEST FOR ETHICS ADVOCATE
NORTH SAN DIEGO COUNTY ASSOCIATION OF REALTORS®**

If you desire assistance with the disciplinary process, the Association can provide you with an Ethics Advocate (“EA”). The EA will help you complete the required forms, if you wish. In addition, at your option, the EA can represent you at any hearings that may be held in connection with your case and assist you through the hearing procedures. **Please note: You will still be required to attend any hearings.** If you wish to be assisted by an EA, please complete and submit this form. **If you do not wish to be contacted by an EA, there is no need to return this form.**

- I wish to be represented by an EA and have completed my Form D-23A “Ethics Advocate Acceptance.”
- I have also completed and enclosed Communication Preference (Form 23B).

Following is my full contact information:

Name

Address

City, State, Zip

Phone

Email

Date

Type/Print Your Name

Signature

Please return to:

**NORTH SAN DIEGO COUNTY ASSOCIATION OF REALTORS®
Attn: Professional Standards Department
1903 Wright Place, Suite 120
Carlsbad, CA 92008
760-597-5170**

ETHICS ADVOCATE COMMITTEE

Ethics Advocate Committee

Landry, Mindi

Member
North San Diego County Associa
AARE
Suite 400
12636 High Bluff Drive
San Diego, CA 92130

Matthews, Wendy C

Member
North San Diego County Associa
Real Broker
8030 La Mesa Blvd # 502
La Mesa, CA 91942

Wilkas, Alexander

Member
North San Diego County Associa
Lily Field Realty
Ste C
2965 Roosevelt St
Carlsbad, CA 92008

Williams, Erica

Member
North San Diego County Associa
Coldwell Banker Village Prop
5256 S. Mission Rd #310
Bonsall, CA 92003

**ETHICS ADVOCATE ACCEPTANCE
NORTH SAN DIEGO COUNTY ASSOCIATION OF REALTORS®**

Case No. _____

_____ Vs. _____
_____ Vs. _____
Complainant(s) Respondent(s)

Right to Challenge Ethics Advocates

You are requesting the assistance of an Ethics Advocate (“EA”) for the above-referenced matter. You may challenge any potential EA. The EA chosen to assist you will be one of those listed below whom you do not challenge. Challenges must be in writing and submitted prior to the assignment of an EA to assist you. The following persons on the attached list are eligible to serve as EAs for the hearing and may be selected to serve as your EA. Please check the appropriate box below.

- I have no objection to the any of the above EAs.
- I object to one or more EAs and have included a list setting forth the names of the EA(s) to whom I object.

Hold Harmless

I hereby release, discharge and hold harmless North San Diego County Association of REALTORS® and the EA from and against any and all claims, actions, damages, liabilities, losses, costs or expenses that I now have or may hereafter have arising out of the assistance of an EA in connection with the above-referenced Case. I further expressly agree that the foregoing release is intended to be as broad and inclusive as permitted by the laws of the state of California and that if any portion thereof is held invalid, it is agreed that the remainder of the release shall, notwithstanding, continue in full force and effect.

By signing below, you warrant that you understand and agree to the above Hold Harmless Agreement.

Dated

Party's Signature

Party's Name (Type or Print)

If you do not sign the Hold Harmless Agreement above, no EA will be assigned to assist you.

ETHICS ADVOCATE COMMUNICATION PREFERENCE
NORTH SAN DIEGO COUNTY ASSOCIATION OF REALTORS®

(Please complete a separate form for each party)

Name: _____

Address: _____

Home Phone: _____

Best Hours to Call: _____

Work Phone: _____

Do Not Contact Work: Best Hours to Call: _____

Fax: _____

Cell Phone: _____

Best Hours to Call: _____

Email: _____

I request that written notifications be:

Mailed to Home Address

E-Mailed

Signed

Dated

Ethics Advocate Objections
North San Diego County REALTORS®

Please check the corresponding box with which Ethics Advocate(s) you object to:

- Mindi Landry
- Wendy Matthews
- Alexander Wilkas
- Erica Williams

Dated: _____

Party's Signature

Party's Name (Type or Print)

**DISCIPLINARY COMPLAINT
NORTH SAN DIEGO COUNTY ASSOCIATION OF REALTORS®**

For Association Use Only Case No. _____ Complaint Received: _____, 20 <u>26</u>

1. I (we), the undersigned complainant(s), hereby allege that the following persons have engaged in conduct subject to disciplinary action by the Association:

RESPONDENT(S):

RESPONDENT(S):

(1)

Name and DRE Number

Name of Firm

Street Address

City, State, Zip

Phone Number

Email Address

(2)

Name and DRE Number

Name of Firm

Street Address

City, State, Zip

Phone Number

Email Address

(3)

Name of Manager and DRE Number

Name of Firm

Street Address

City, State, Zip

Phone Number

Email Address

(4)

Name and DRE Number

Name of Firm

Street Address

City, State, Zip

Phone Number

Email Address

2. The above-named respondent(s) have violated the following: **(Note: You may also choose not to select any of the options below and instead allow the Grievance Committee to decide the proper allegations.)**

Code of Ethics violations:

- Article 1: REALTORS® owe a fiduciary duty to their clients.
- Article 2: REALTORS® must avoid concealment of pertinent facts.
- Article 3: REALTORS® must cooperate with other brokers.
- Article 4: REALTORS® must disclose any interest they have in a property they are buying or selling.
- Article 5: REALTORS® must disclose any contemplated interest they have in property for which they are providing professional services.
- Article 6: REALTORS® cannot accept profit on expenditures made for their client or recommendations to their client without disclosure.
- Article 7: REALTORS® must disclose and obtain consent to accept compensation from more than one party.
- Article 8: REALTORS® must keep a trust account for clients' funds.

- Article 9: REALTORS® must insure that all agreements are in writing and clear.
- Article 10: REALTORS® must not discriminate in their business on the basis of race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity.
- Article 11: REALTORS® must provide competent service.
- Article 12: REALTORS® must be honest in their real estate communications and present a true picture in advertising.
- Article 13: REALTORS® must not engage in the unauthorized practice of law.
- Article 14: REALTORS® must cooperate in professional standards proceedings.
- Article 15: REALTORS® must not knowingly lie about competitors.
- Article 16: REALTORS® must not interfere with the exclusive representation agreements of other REALTORS®.
- Article 17; REALTORS® must arbitrate contractual disputes and certain non-contractual disputes arising out of the real estate business.
- Section(s) _____ of the MLS Rules and Regulations
- Other membership duty as set forth in the bylaws of the Association (specify): _____

3. The facts and circumstances supporting the above allegation(s) are detailed in the attached statement marked "Exhibit 1," which is hereby incorporated by reference and made part of this complaint.
4. I am informed that the named respondent(s) are current REALTOR® members of the Association and/or participants/subscribers in the MLS or that the property at issue is located within the jurisdiction of this Association.
5. Date of knowledge of alleged misconduct is _____. Date of the closing or conclusion of the transaction, if applicable is _____. This complaint, meeting all filing requirements, must be filed within 180 calendar days after the alleged offense and facts relating to it could have been known by the complainant in the exercise of reasonable diligence or one hundred eighty (180) days after the conclusion of the transaction, or event, whichever is later.
6. Are the circumstances giving rise to this complaint, or the respondents in this case, involved in a civil or criminal proceeding or in any proceeding before a governmental agency?
YES NO If you answered yes, please attach a written statement of explanation.
7. Have you filed, or do you plan to file a similar or related complaint with another Association of REALTORS®?
YES NO If you answered yes, please attach a written statement of explanation.
8. I understand there will be a recording of any full disciplinary hearing. I understand that the recording is subject to the rules of confidentiality and is made solely for the purpose of a Review by the Association Board of Directors, if one is requested.
9. I will be represented by an attorney, whose name, address, telephone number, and email address are:

Name _____

Address _____

City _____ State _____ Zip _____

Telephone _____ Email _____

10. I agree to abide by the rules and procedures used by this Association to conduct disciplinary hearings. I understand that the proceedings regarding this matter will be kept confidential and that I have an obligation to maintain and protect this confidentiality.

Under the penalties of perjury, I declare that to the best of my knowledge and belief my allegations in this complaint are true and correct.

Dated: _____ at _____, California

COMPLAINANT(S): COMPLAINANT(S):

(1)

Signature

Name (Type or Print)

Name of Firm

Street Address

City, State, Zip

Phone

Email Address

(2)

Signature

Name (Type or Print)

Name of Firm

Street Address

City, State, Zip

Phone

Email Address

(3)

Signature

Name (Type or Print)

Name of Firm

Street Address

City, State, Zip

Phone

Email Address

(4)

Signature

Name (Type or Print)

Name of Firm

Street Address

City, State, Zip

Phone

Email Address

Please Email or file complaint to:

NORTH SAN DIEGO COUNTY ASSOCIATION OF REALTORS®

**Attn: Jennifer Soto
1903 Wright Place, Suite 120
Carlsbad, CA 92008**

Email: ProStands@nsdcrealtors.com

ROLES OF PROFESSIONAL STANDARDS VOLUNTEERS

There are three groups that enforce professional standards for the local association of REALTORS®. This form explains the role of each of these groups.

THE GRIEVANCE COMMITTEE

The Grievance Committee's function is to:

- Review the complaint for a possible citation for violation of the Code of Ethics, if the association has adopted the Citation Policy;
- Review the complaint to insure the proper articles and sections are cited based on the alleged facts; and
- Screen complaints in order to prevent abuse and harassment through frivolous or unwarranted complaints filed for harassment purposes.

The Grievance Committee considers allegations of unethical conduct but does not determine guilt or innocence. If the Grievance Committee forwards a complaint for a hearing, it does not mean the volunteers on the committee believe the respondent is guilty. It only means that the complaint contains allegations that, if proven at a hearing, would be grounds for a violation.

THE PROFESSIONAL STANDARDS COMMITTEE

The members of the Professional Standards Committee serve as panel members for disciplinary hearings. They are supposed to ensure that the hearing is conducted according to the procedures outlined in the *Manual* and that both sides are given the opportunity to fully present all relevant evidence. After the hearing, the members of the hearing panel will determine: (i) whether the respondent has committed any violations that were alleged in the complaint; and (ii) if the respondent has committed violations, what disciplinary action will be recommended to the Board of Directors.

THE BOARD OF DIRECTORS

The Board of Directors serve as the review body for the association's disciplinary process. Members of the Board of Directors:

- Upon the request of a complainant, review the decision of the Grievance Committee to dismiss a complaint or delete allegations from a complaint;
- Ratify the decision of the hearing panel if no party requests a review of the hearing; and
- Serve as panelists at a review hearing if a party requests a review of the hearing panel's decision.

The Board of Directors does not conduct rehearings. Any review hearing is solely limited to a discussion of the permitted grounds for review that are outlined in the Request for Review. Once the Board of Directors makes a decision in a disciplinary case, it is considered final and binding. The California Association of REALTORS® has no authority to review or overturn the decisions of local association Boards of Directors.

COMPLAINANT: EXHIBIT 1, Template Overview

INTRODUCTION:

Clear and concise submissions aid both the Complainant, Respondent, and the Professional Standards members alike. This template package has been created with two goals in mind:

- 1) Ensure that the Complainant's allegations receive full attention and weight and are not potentially diluted or missed due to disorganized, complex, or voluminous submissions.
- 2) In a respect for their time, to help each of the potentially reviewing groups quickly identify the pertinent arguments and evidence as necessary to complete their part of the process:
 - a. *Grievance Committee*: Reviews packet to ensure that alleged actions potentially violate the NAR Code of Ethics, MLS Rules, and Membership Duties so that resources are not spent on allegations that, even if true, would not result in discipline.
 - b. *Professional Standards Hearing Panel*: Manages the actual hearing, weighs testimony and evidence, publishes Findings of Fact, and in the case of violations assigns discipline.
 - c. *Appeals Panel*: If the Findings and Discipline are appealed, this group from the Board of Directors reviews for Misapplication or Misinterpretation of an Article or Rule, Lack of Procedural Due Process, or Unwarranted Discipline.

Additional benefits of this template include potentially serving as a roadmap for your hearing presentation and enabling the hearing panelists to come prepared with critical questions that may clarify the issues.

IMPLEMENTATION:

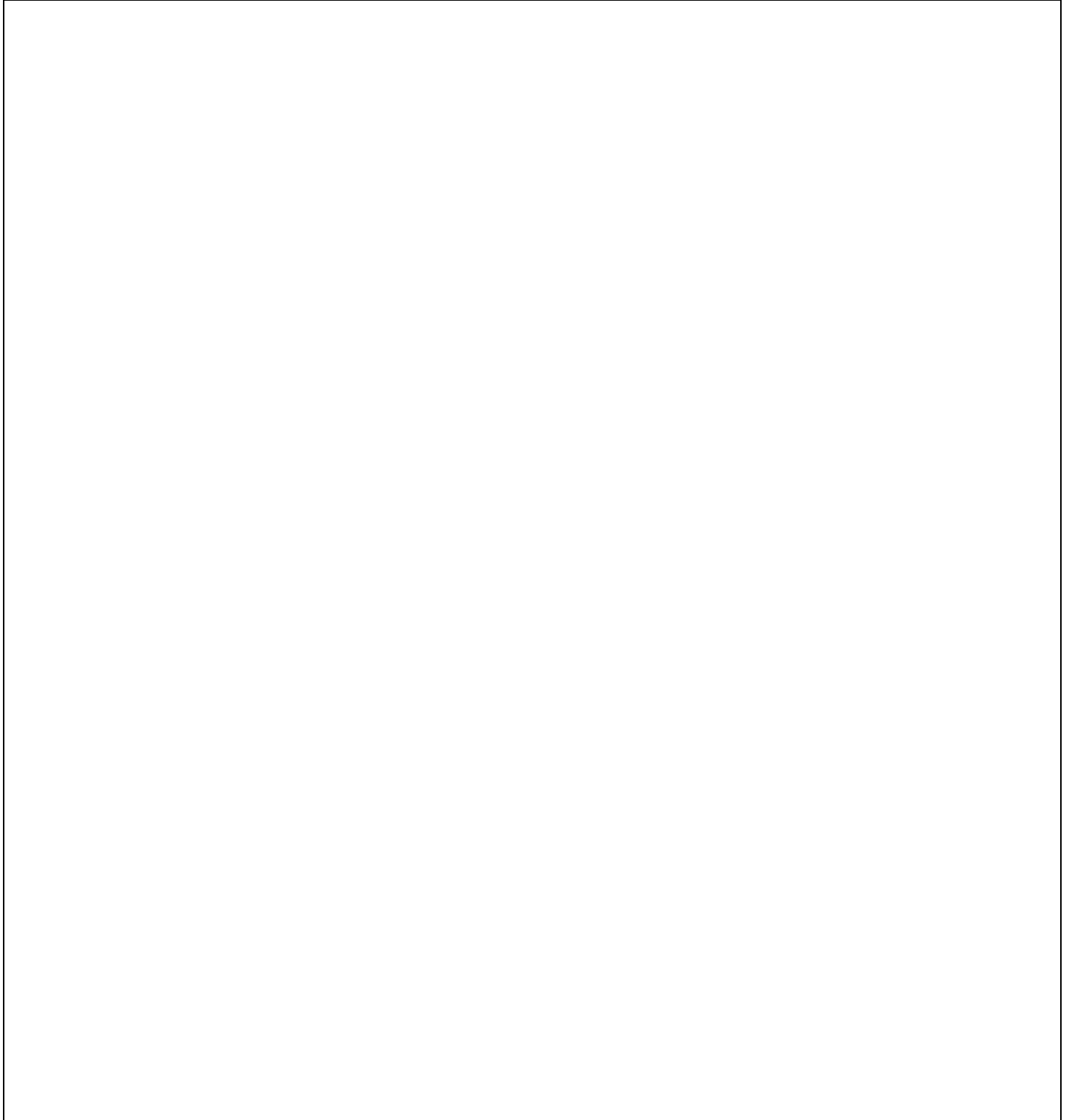
In the following pages, you will find the following 3 sections:

- I) Overview of Events – Intended for the Complainant to tell the story of what happened from their perspective and the opportunity to provide context to the alleged violations.
- II) Alleged Violating Actions – Focuses only on the specific alleged actions that would constitute potential violations of the NAR Code of Ethics, MLS Rules, and Membership Duties. These should be clear and specific.
- III) Supporting Evidence – References the specific attached proof or future testimony that relates to the Alleged Violating Actions.

Please note that a sample submission has been included to help you complete your packet. If the organization or intent of this template is unclear, an Ombudsman or Ethics Advocate may be available from the local Board or Association to help you with your submission.

COMPLAINANT: EXHIBIT 1, SECTION I

OVERVIEW OF EVENTS (COMPLAINANT): In your own words, tell what happened. This is your opportunity to give context to the overall submission. Make sure to reference all parties involved (i.e. Agent, Broker, Team Members, etc.) and a timeline of events. If more space is needed, please use additional copies of this page. Alternatively, you may use any free-form write-up and label the top as “Exhibit 1, Section I”. [Click here to attach your free-form write-up.](#)



COMPLAINANT: EXHIBIT 1, Section II

ALLEGED VIOLATING ACTIONS (COMPLAINANT): These are the specific actions alleged along with which Articles of the NAR Code of Ethics, MLS Rules, or Membership Duties those actions violate. Note that the Grievance Committee may make additions or deletions to this section during their review.

Item	Article, MLS Rule, or Membership Duty Violated	Specific Alleged Action that Violates the Code of Ethics Article, MLS Rule, or Membership Duty	Office Use (Leave Blank)
A			
B			
C			
D			
E			
F			
G			
H			
J			
K			
L			
M			
N			
P			
Q			
R			
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