

Greater Downey Association of REALTORS,[®] INC

12073 Paramount Blvd. Downey, California 90242 (562) 861-0915 Fax (562) 923-9995 www.daor.com

Re: Request for Disciplinary Complaint

As you requested, please find enclosed the following information to assist you in filing a disciplinary complaint with the Downey Association of Realtors[®] :

Please refer to the www.daor.com to obtain the association's MLS Rules & Regulation and a copy of the *California Code of Ethics and Arbitration Manual*. Also, please be advised that in order for a complaint to be considered filed timely with the Association, the complaint must be filed within one hundred and eighty (180) calendar days after the facts constituting the alleged wrongful conduct occurred. Also, you may want to become familiar with the California Code of Ethics and Arbitration Manual as this is the set of rules that are used to process complaints filed with the Association. Finally, it should be reminded that since the Association is not a governmental entity, it does not have authority to take action regarding the licensing status of its members.

(1) Fill out Complaint Form D-1—to judge which articles of the Code of Ethics have been violated, please refer to the Code of Ethics and/or MLS Rules both found at www.daor.com

(2) Submit with Form D-1, A Written Statement and Exhibits. Please Include a written statement of the occurrence. What are the circumstances you are reporting? This statement is to give the Grievance Committee a better understanding of what may have happened.

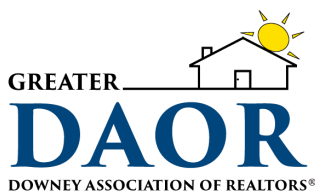
Greater Downey Association of REALTORS is a voluntary trade association and has no jurisdiction over an agent's real estate licensing status. If you wish to file a complaint with the state licensing agency, contact the California Bureau of Real Estate @ (213) 620-2072 or visit www.bre.ca.gov The filing of this Disciplinary Complaint will not address any money issues you may have with the Respondent.

If you have any questions about the procedures being used to process your complaint, please refer to the *CAR California Code of Ethics and Arbitration Manual* of CAR or feel free to call me at 562-861-0915.

Sincerely,

Erica Ochoa, Professional Standards Administrator
GREATER DOWNEY ASSOCIATION OF REALTORS[®], INC.

EO:hs



Before You File an Ethics Complaint

Background

Boards and associations of REALTORS® are responsible for enforcing the REALTORS® Code of Ethics. The Code of Ethics 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®.

Many difficulties between real estate professionals (whether REALTORS® or not) result from misunderstanding, miscommunication, or lack of adequate communication. If you have a problem with a real estate professional, you may want to speak with them or with a principal broker in the firm. Open, constructive discussion often resolves questions or differences, eliminating the need for further action.

If, after discussing matters with your real estate professional or a principal broker in that firm, you are still not satisfied, you may want to contact the local board or association of REALTORS®. In addition to processing formal ethics complaints against its REALTOR® members, many boards and associations offer informal dispute resolving processes (e.g. ombudsmen, mediation, etc.). Often, parties are more satisfied with informal dispute resolution processes, as they are quicker, less costly, and often help repair damaged relationships.

If, after taking these steps, you still feel you have a grievance, you may want to consider filing an ethics complaint. You will want to keep in mind that . . .

- Only REALTORS® and REALTOR-ASSOCIATE®s are subject to the Code of Ethics of the National Association of REALTORS®.
- If the real estate professional (or their broker) you are dealing with is not a REALTOR®, your only recourse may be the state real estate licensing authority or the courts.
- Boards and associations of REALTORS® determine whether the Code of Ethics has been violated, not whether the law or real estate regulations have been broken. Those decisions can only be made by the licensing authorities or the courts.
- Boards of REALTORS® can discipline 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. Additional examples of authorized discipline are a letter of reprimand and appropriate fines. For serious or repeated violations, a REALTOR®'s membership can be suspended or terminated. 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.

Filing an ethics complaint

The local board or association of REALTORS® can provide you with information on the procedures for filing an ethics complaint. Here are some general principles to keep in mind.

- Ethics complaints must be filed with the local board or 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 Board's informal dispute resolution processes are invoked in which case the filing deadline will momentarily be suspended).
- The REALTORS® Code of Ethics consists of seventeen (17) Articles. The duties imposed by many of the Articles are explained and illustrated through accompanying Standards of Practice or case interpretations.
- Your complaint should include a narrative description of the circumstances that lead you to believe the Code of Ethics may have been violated.
- Your complaint must cite one or more of the Articles of the Code of Ethics which may have been violated. Hearing panels decide whether the Articles expressly cited in complaints were violated - not whether Standards of Practice or case interpretations were violated.
- The local board or association of REALTORS®' Grievance Committee may provide technical assistance in preparing a complaint in proper form and with proper content.

Before the hearing

- Your complaint will be reviewed by the local board or association's Grievance Committee. Their job is to review complaints 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 does not mean they don't believe you. Rather, it means that they do not feel that your allegations would support a hearing panel's conclusion that the Article(s) cited in your complaint had been violated. You may want to review your complaint to see if you cited an Article appropriate to your allegations.
- If the Grievance Committee forwards your complaint for hearing, that does not mean they have decided the Code of Ethics has been violated. Rather, it means they feel that if what you allege in your complaint is found to have occurred by the hearing panel, that panel may have reason to find that 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 local board or 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, 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.
- Be sure you have all the documents and other evidence you need to present your case.
- 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 didn't), 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 bring it up during your presentation.
- Recognize that 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 doesn't mean they aren't telling the truth as they recall events. It is up to the hearing panel, in the findings of fact that will be part of their decision, to determine what actually happened.
- The hearing panel will pay careful attention to what you say and how you say it. An implausible account doesn't 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, there are appellate procedures that can be involved. The fact that a hearing panel found no violation is not appealable.
- Refer to the procedures used by the local board or association of REALTORS® for detailed information on the bases and time limits for appealing decisions. Appeals brought by ethics respondents must be based on (a) 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 (c) the nature or gravity of the discipline proposed by the hearing panel. Appeals brought by ethics complainants are limited to procedural deficiencies or failures of due process that may have prevented a full and fair hearing.

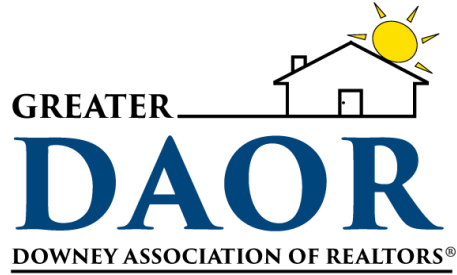
Conclusion

- 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 or a principal broker in the firm. If these efforts are not fruitful, the local board or association of REALTORS® can share options for dispute resolution, including the procedures and forms necessary to file an ethics complaint.

For Association Use Only

Case No. _____

Complaint Received: _____



DISCIPLINARY COMPLAINT
GREATER DOWNEY ASSOCIATION OF REALTORS®

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):

Name

Firm

Street Address

City, State, Zip

DRE #

RESPONDENT(S):

Name

Firm

Street Address

City, State, Zip

DRE #

RESPONDENT(S)

Name

Firm

Street Address

City, State, Zip

DRE #

RESPONDENT(S)

Name

Firm

Street Address

City, State, Zip

DRE #

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 ensure that all agreements are in writing and clear.
 - Article 10: REALTORS® must not discriminate in their business based on 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 or recklessly make false or misleading statements 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 _____. 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 If you answered yes, please attach a written statement of explanation.

NO

7. Have you filed, or do you plan to file a similar or related complaint with another Association of REALTORS®?

YES If you answered yes, please attach a written statement of explanation.

NO

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:

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)

Signature

Name

Firm

Street Address

City, State, Zip

Phone Number

Email

DRE #

COMPLAINANT(S)

Signature

Name

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