



**SOUTHLAND REGIONAL
ASSOCIATION OF REALTORS®, INC.**

PROFESSIONAL STANDARDS RULES

The Southland Regional Association of REALTORS® (SRAR) has adopted as its governing regulations the California Association of REALTORS® Code of Ethics and Arbitration Manual and its Implementation Guidelines, as they now exist or as they may be modified in the future. In addition, the Southland Regional Association of REALTORS® has adopted an “Addendum”, containing certain provisions applicable to SRAR Ethics and Arbitration cases, which may supplement or in some cases contradict the CAR rules and guidelines. Members and other concerned parties should review the SRAR Addendum before proceeding with an Ethics or Arbitration Complaint.

ABBREVIATIONS USED IN ADDENDUM

CODE:	California Association of REALTORS® Code of Ethics & Arbitration Manual
ETHICS-MAN:	California Association of REALTORS® Implementation Guidelines for Ethics
ARB-MAN:	California Association of REALTORS® Implementation Guidelines for Arbitration.



**SOUTHLAND REGIONAL
ASSOCIATION OF REALTORS®, INC.**

RULE 1: Responsibility for Agents violations of the Code of Ethics or other rules

“It is the policy of the SRAR that the Responsible Realtor/Responsible MLS Broker, or office manager, is not automatically in violation as a result of an agent/associate being found in violation. The RR/RB/Manager is only to be found in violation if he/she was a knowing participant in the transaction giving rise to the violation, or if the violation was the result of a lack of training or supervision by the RR/RB/Manager. The naming of the RR/RB/Manager in the complaint does not affect this policy”

See CODE Sections 3(c), 5(b), and 21(a); ETHICS-MAN Sections A(3) and A(6); B(3)

RULE 2: The refusal to Submit to Arbitration or to abide by the award is a violation of a duty of membership. The following procedure will be followed in the event of a complaint alleging a failure to arbitration or to abide by an award.

See CODE Sections 2, 42, 44

“If a complaint against a MEMBER/MLS PARTICIPANT/SUBSCRIBER is that he/she has refused to submit a controversy to Arbitration or to abide by the Award of the Arbitrators or a written Settlement Agreement as a result of Mediation, the complaint shall be brought before a panel of three (3) Directors for the purpose of enabling said MEMBER/MLS PARTICIPANT/SUBSCRIBER to Show Cause why he/she refuses to submit or abide.

The sole question of fact for the Directors to decide will be whether or not the MEMBER/MLS PARTICIPANT/SUBSCRIBER is justified in refusing to submit an arbitrable matter to arbitration or in failing to abide by and comply with the Arbitration Award or Settlement Agreement.

The MEMBER/MLS PARTICIPANT/SUBSCRIBER may call witnesses, present evidence and be represented by legal counsel.

If the panel of Directors believe that there was no valid reason for the failure to arbitrate the dispute, or for the failure to abide by the award, they may impose such discipline as is available as in the case of any violation, as set forth in these rules, or they may suspend the Respondent from all services until such time as the Respondent agrees to the arbitration, or satisfies the award. Provided, however, it is the policy of this Association that none of the discipline shall be implemented until there is a final court order either in an action for declaratory relief, a court order ordering arbitration, or a court order rendering judgment upon an award at which time the discipline may be enforced.



**SOUTHLAND REGIONAL
ASSOCIATION OF REALTORS®, INC.**

Satisfaction of the award may be considered by the Association in any determination to impose the discipline. In any action to compel arbitration or to enforce the award, the successful party shall be entitled to reasonable attorney's fees."

ARB-MAN Sections A(2,3) and E(4)

RULE 3: Individual and Company liability in Arbitrations

"All complaints in Arbitration involving a firm or any of its agents may be brought in the name or against such firm by naming the designated Responsible REALTOR®MLS Broker, and any award rendered against the Responsible Realtor Broker shall be an award against that firm, and not the Responsible REALTOR®MLS Broker. This is not intended to relieve a Responsible REALTOR®MLS Broker from liability for a transaction in which he/she was involved, nor to impose liability upon the firm for a purely personal transaction of the Responsible REALTOR®MLS Broker.

See CODE Section 41 and 42; ARB-MAN Sections B(4) and B(6)

RULE 4: Salespersons personal liability in commission arbitrations

"Where an arbitration involves a commission claim, and where all or a part of the commission being claimed was paid by the Responsible Broker to a Salesperson affiliated with Responsible Broker, the arbitration request may name both the Broker and the Salesperson, and where it is determined that the Salesperson has some culpability in connection with the claim, an award may be rendered jointly and severally against both the broker and such Salesperson, but in the case of the Salesperson, the award may not exceed the amount of the commission paid to him or her by the Responsible Broker.

This provision is not intended to diminish the right of the Complainant to recover the full amount of the award from the Respondent Responsible REALTOR®MLS Broker. Therefore, any amount recovered from a Salesperson shall be credited toward any amount due from the Responsible REALTOR®MLS Broker."

See CODE Section 41 and 42; ARB-MAN Sections B(4) and B(6)

RULE 5: Duty to file a Response in Arbitration, and the SRAR response to such failure

See CODE Section 55(g)

"LATE FILING OF RESPONSE OF ARBITRATION"

- (1) The Administrator shall promptly forward a copy of the request for



Arbitration and Form A-1 to the Respondent, and require him/her within fifteen (15) days to furnish his/her response.

- (2) If the Respondent does not submit to Arbitration within fifteen (15) days of receipt of notice of Arbitration, by returning the Respondent Arbitration Agreement (form A-5), he/she shall be deemed delinquent. As soon as possible after the 15 days, a Notice of Default shall be sent by Registered Mail to said delinquent Respondent, advising him/her that they are in default and, if the Response is not received within five (5) days of the Notice of Default, that Respondent shall be deemed in default, shall receive no further notices and shall not be entitled to appear and defend against the claim.
- (3) If at any time up to thirty (30) days before the date of hearing, if the defaulted Respondent can show in writing good cause for having failed to respond in a timely fashion, to be determined by the panel appointed to hear the case, the Panel may set aside the default and accept the late Response. If there is any prejudice to the Complainant, the hearing may be continued by the Panel for such time as they deem necessary to protect the Complainant.
- (4) If a Respondent has received a request for a response followed by a Notice of Default and has failed to respond, the Respondent has waived their right to request a Procedural Review by the Board of Directors after the hearing."

RULE 6: Rules regarding the use of an interpreter/translator

See CODE Section 18

In the event a non-English speaking witness is to testify for any party, it shall be the responsibility of the party to provide a qualified independent interpreter. The party intending to call such a witness shall notify the Association and all other parties at least ten

(10) days prior to the date of the hearing, and in such notice shall indicate the language which will be used by the non-English speaking witness, together with any dialect of such foreign language, if applicable. The Association shall have the right to have present its own interpreter for the benefit of the hearing panel, and other parties may have their own interpreter present for the purpose of providing assistance to them. In the event the above notice is not given, the witness shall not be allowed to testify at the hearing. Additionally, an Interpreter at a hearing cannot serve as both an interpreter and a witness. The election as



**SOUTHLAND REGIONAL
ASSOCIATION OF REALTORS®, INC.**

to the status shall be made prior to the commencement of the hearing.

In the event any party intends to present a written document that is in a language other than English, a translation by a qualified independent translator shall be presented along with the document at least ten (10) days prior to the date of the hearing, so that the Association and all other parties may satisfy themselves as to the accuracy of the translation.

RULE 7: Procedures regarding payment of fines

See CODE Sections 6(a)(4) and 7(a)(4)

- (1) All Disciplinary fines must be paid within twenty (20) days immediately following the date of affirmation by the Board of Directors of within twenty (20) days immediately following the execution of a Consent to Imposition of Discipline, unless extended as provided below. If not paid by said date, the complaint for non- payment shall be brought before a panel of five (5), but not less than three (3) MEMBERS of the Board of Directors on the date of the next regular meeting or at a special meeting called by the President for the purpose of enabling said MEMBER to show cause why he/she refused or was unable to pay the fine, the procedures for hearing being the same as set forth in Section 30 herein. (Failure to Submit or Abide). A disagreement with the decision of the Professional Standards of Appeal Panel will not be considered a valid ground for non-payment.

If the fine is not paid when due, including any extension date that may be

given by the above panel, the MEMBER/MLS PARTICIPANT/SUBSCRIBER will be automatically suspended from Association services until such time as the fine is paid: if not paid within six (6) months, the MEMBER/MLS PARTICIPANT/SUBSCRIBER may be expelled from the membership/MLS Subscription without further notice or hearing. The Board of Directors may make any suspension or expulsion subject to obtaining a judgment from the court of competent jurisdiction in a declaratory relief action, declaring that the suspension or expulsion would not violate any of the rights of that MEMBER/MLS PARTICIPANT/SUBSCRIBER.

- (2) The MEMBER or MLS PARTICIPANT/SUBSCRIBER found in violation shall be individually responsible for payment of his/her



**SOUTHLAND REGIONAL
ASSOCIATION OF REALTORS®, INC.**

disciplinary fine.

- (3) All Assessment Panel fines must be paid within the fifteen (15) working days stipulated in the Award of Assessment Panel. If not paid within said time, all Association services shall be suspended until payment is received, up to a maximum of thirty (30) days. If the Assessment Award remains unpaid for thirty (30) days, services shall be restored, and the matter referred to a panel of not less than three (3) MEMBERS of the Board of Directors at a meeting called by the President for the purpose of enabling said MEMBER to Show Cause why he/she refused to pay, under the same procedures as in Section 30 (Failure to Submit or Abide). Further discipline may be imposed by this panel pursuant to PART ONE, Section 6(b).
- (4) If the prevailing party in an Arbitration is not paid within the time specified by the Settlement Agreement or Award of Arbitration, he/she will be entitled to a late charge of five percent (5%) of the total amount due plus interest to be computed at the legal rate from the date the Settlement Agreement or Award was due or extension through a Show Cause Hearing if granted by the Board of Directors.
- (5) If the Association is required to file an action for Declaratory Relief or other legal action in order to enforce the Professional Standards Rules and/or fines, or to defend any action brought by any MEMBER or MLS PARTICIPANT/SUBSCRIBER which arises from these rules, the Association shall be entitled to reasonable attorney fees and costs incurred due to the above mentioned action, in addition to any other relief to which it may be entitled.

RULE 8: Anonymous Complaints

See CODE Section 24(j); ETHICS-MAN Sections B(1) and D

Anonymous complaints will be accepted only under the Citation Policy which pertains to Advertising under Article 12 of the Code of Ethics. Reference Rule 12.

RULE 9: Hearing Procedures concerning witnesses and documents

WITNESSES, ATTENDEES, AND DOCUMENTS:

- a. Every party must have his/her own witnesses and documents for presentation at the Assessment or Ethics Hearing. The Tribunal, on its own motion, or on written application by any party, may summon



**SOUTHLAND REGIONAL
ASSOCIATION OF REALTORS®, INC.**

witnesses to appear. An application by a party to summon a witness must be clearly demonstrated that the proposed witness has information material and relevant to the issue to be presented at the hearing. An application shall be submitted to the Hearing Panel through the Professional Standards Administrator at least fifteen (15) days before the date designated for the hearing.

In the event a REALTOR® witness, ordered to appear by the Panel, fails to appear, the party who sought the witness may request a continuance. A continuance may be granted if the Panel determines that the testimony of the absent witness could influence the outcome of the hearing. If a party declines to request a continuance, his or her waive shall be noted on the record.

Parties to a hearing are advised that the Panel's authority to summon witnesses applied only to REALTOR® members of this or another Association, pursuant to Article 14 of the Code of Ethics. The Panel does not have subpoena power to compel the attendance on non-member witnesses. All witnesses, except the parties to the Hearing, will be excused from the Hearing room except while testifying.

- b. The panel will require seven (7) copies of all documents submitted at a hearing. If the Association is required and able to provide needed copies, there will be a one- time fee of \$50.00, plus 50 cents per page.
- c. **NOTICE IS REQUIRED FOR WITNESS AND DOCUMENTS:** At least ten (10) business days prior to the date of a hearing, all parties to an ethics or arbitration hearing shall submit to the panel and the other party(ies) a written Notice of all witnesses to be called at the Hearing, and a copy of all documents intended to be produced at the Hearing, unless the witnesses and documents have been

identified in the Complaint or earlier filings. If the party receiving such a Notice or documents believes there is a need to produce new witnesses or documents in response to that provided in the first other's notice, then they shall provide their list of witnesses and documents at least five (5) business days prior to the Hearing.

- (1) Business days are defined as Mondays through Fridays, excluding recognized holidays.
- (2) If the above Notices and/or documents are not provided, as set forth above, the witnesses and documents may not be presented over the objection of the other party.
- (3) A party may be excused from the above requirement if the panel



**SOUTHLAND REGIONAL
ASSOCIATION OF REALTORS®, INC.**

concludes that, with due diligence, the Notice or documents could not have been provided within the required time. If the excuse is granted, a request for a continuance by the other party shall be granted

See CODE Section 41 and 42; ARB-MAN Sections B(4) and B(6)

- d. No spectators are allowed at Hearings other than the President (or designee), the Executive Vice President (or designee) and members of the Professional Standards Committee, provided they have had no prior contact with the case. They may observe, but not participate, in the deliberations.
- e. During the course of the year, voting panel members of the Grievance Committee shall attend at least one ethics hearing in which they are not directly involved, but shall be excused prior to deliberations. Their role is as an observer, and they are not to participate in asking or answering any questions, whether from the parties or the panel. There is to be no more than two observers at an ethics hearing with staff scheduling the observers. Staff shall insert in the Notice of Hearing a provision disclosing these observers, and offering the parties an opportunity to object to the presence of observers. If there is an objection, the observer objected to shall not attend.

See CODE Sections 30, 33, 60-61, 64(c); ARB-MAN Sections C(11) and D(9) and D(11)

RULE 10: Ombudsman Procedures/availability

Basic Policy:

These Ombudsman procedures, which have been adopted by the Southland Regional Association of Realtors (SRAR), are intended to provide enhanced communications and initial problem solving for complaints at the Association level.

The SRAR is charged with the responsibility of receiving and resolving complaints. This obligation is carried out by the Association through its Grievance Committee and Professional Standards Committee. Many “complaints” received by the Association do not expressly allege violations of the specific Articles of the Code of Ethics, and many do not detail conduct related to the Code. Some “complaints” are actually transactional, technical or procedural questions readily responded to by Ombudsmen.

It is the belief of the SRAR that many complaints might be averted with enhanced communications and initial problem solving capacity available in this program.



**SOUTHLAND REGIONAL
ASSOCIATION OF REALTORS®, INC.**

These Ombudsman procedures, which have been adopted by the Association, are intended to provide that capacity.

Role of the Ombudsman:

The Ombudsman's role is primarily one of communication and conciliation, not adjudication. Ombudsmen do not determine whether ethics violations have occurred; rather they anticipate, identify and resolve misunderstandings and disagreements before they develop into disputes and possible charges of unethical conduct.

Qualifications and Criteria for an Ombudsman:

The Association will require that before a Member can be designated as an "Ombudsman" that he or she must have certain minimum standards of experience in the Code of Ethics, Professional Standards procedures and will have knowledge of State real estate law and regulations, and the current standards of real estate practice.

Scope of Ombudsman Services:

The Association has considerable latitude in determining how and when Ombudsmen will be utilized. For example, Ombudsmen can field and respond to a wide variety of inquiries and complaints, including general questions about real estate practice, transaction details, ethical practice and enforcement issues. Ombudsmen can also receive and respond to questions and complaints about members, can contact members to inform them that a client or customer has raised a question or issue; and can contact members to obtain information necessary to provide an informed response.

In cases where an Ombudsman believes that a failure of communication is the basis for a questions or complaint, the Ombudsman can arrange a meeting of the parties to facilitate a mutually acceptable resolution. Where a written ethics complaint in the appropriate form is received, it can be initially referred to the Ombudsman who will attempt to resolve the matter, except that complaints alleging violations of the public trust (as defined in Article IV, Section 2 of the NAR Bylaws) may not be referred to an ombudsman.

In the event the Ombudsman concludes that a potential violation of the public trust may have occurred, the Ombudsman Process shall be immediately terminated, and the parties shall be advised of this right to pursue a formal complaint; to pursue a complaint with any appropriate governmental or regulatory body; to pursue litigation; or to pursue any other available remedy.

Right to Decline Ombudsman Services:



**SOUTHLAND REGIONAL
ASSOCIATION OF REALTORS®, INC.**

Persons filing complaints, or inquiring about the process for filing complaints, will be advised that Ombudsman services are available to attempt to informally resolve their complaint. Such persons will also be advised that they may decline Ombudsman services and can have their complaint considered at a formal hearing.

Resolution of complaints:

If a matter complained of is resolved to the mutual satisfaction of all parties through the efforts of an Ombudsman, the formal complaint brought initially (if any) will be dismissed.

Failure to comply with agreed upon resolution:

Failure or refusal of a member to comply with the terms of a mutually agreed on resolution shall entitle the complaining party to resubmit the original complaint, or, where a formal complaint in the appropriate form had not been filed, to file a complaint. The time the matter was originally brought to the Board or Association's attention will be considered the commencement date for purposes of determining whether a complaint is timely filed.

Referrals to the Grievance Committee or to state regulatory bodies:

Ombudsmen cannot refer concerns they have regarding the conduct of any party utilizing their services to the Grievance Committee, to the state real estate licensing authority, or to any other regulatory body. The prohibition is intended to ensure full participation impartiality and avoid the possible appearance of bias. Ombudsmen are, however, authorized to refer concerns that the public trust may have been violated to the Grievance Committee.

Confidentiality:

The Ombudsman Process is a form of "mediation" under California law, and accordingly all comments, conversations and written documents prepared for the Ombudsman Process are deemed confidential, to the same extent as in arbitration mediation, under Professional Standards rule 21(g) and California Evidence Code Section 1119.

See CODE Section 20(a); ETHICS-MAN Section C(3)

RULE 11: Ethics Advocate procedure/availability

- (1) Any party may be represented by legal counsel or by a REALTOR® (or both) at any ethics hearing. 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



**SOUTHLAND REGIONAL
ASSOCIATION OF REALTORS®, INC.**

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 rehearings or 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.

- (2) The complainant may request the assistance of an EA, by submitting a Request for Ethics Advocate packet (Forms E-2, E-2a & E-2b) to the Association. The EA is authorized to help the complainant draft the Complaint (Form E-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.
- (3) If the complainant returns the completed Request for Ethics Advocate (Form E-2), Ethics Advocate Acceptance (Form E-2a) and Ethics Advocate Communication Preference (Form E-2b), 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.
- (4) The respondent may also request the assistance of an EA, by submitting the Request for Ethics Advocate packet (Forms E-2, E-2a & E-2b) to the Association. The EA is authorized to help the respondent draft the Response 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.
- (5) If the respondent returns the completed Request for Ethics Advocate (Form E-2), Ethics Advocate Acceptance (Form E-2a) and Ethics Advocate Communication Preference (Form E-2b), 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.

See CODE Section 18(a) and 28(b); ETHICS-MAN Sections F(2)



**SOUTHLAND REGIONAL
ASSOCIATION OF REALTORS®, INC.**

RULE 12: Citation Policy/Alternate to Ethics Hearings

- (1) Beginning August 1, 2009, the Association will process certain less serious Advertising violations on a "Citation" basis. A "Citation" is a written notice to a member or MLS participant that the Grievance Committee has determined that they are in violation of a specified advertising rule, and proposing that the violation may be satisfied by the acceptance of a warning for a first violation, a \$500 fine for a second, or a \$1000 fine for a third.
- (2) The Citation policy will be in affect indefinitely or until decided otherwise by the Board of Directors.
- (3) The violations which are subject to a Citation are as follows:
 - Failure to present a true picture in real estate communications and advertising. Failure to disclose professional status in advertising and other representations. Failure to disclose compensation from 3rd party for services provided free to a client.
 - Advertisement offering to sell/lease property without authority of owner or listing roker.
 - Failure to disclose name of firm in advertisement for listed property.
 - Failure to disclose status as both owner/landlord and REALTOR® or licensee when advertising property in which REALTOR® has ownership interest.
 - Falsely claiming to have "sold" property.
 - Registration or use of deceptive URL or domain name.
 - Violations of MLS Rules 12.7, 12.8, 12.9, 12.10, 12.11, 12.19, 12.20
- (4) The above violations apply to both REALTORS® and non-member participants in the MLS.
- (5) Upon receipt of a Citation, the REALTOR®/MLS Participant has 10 days from the date of the Citation to indicate his or her acceptance of the above recommended discipline. If the recommendation contained in the Citation is refused, or if there is not response within 10 days, then the complaint shall be referred back to the Grievance Committee, who may, if the evidence warrants it, amend the complaint and add new or different charges. The file will then be handled as in the case of any other Complaint pursuant to the Professional Standards Rules.
- (6) Upon acceptance of the recommended discipline, and the payment of the fine, if that is recommended, the matter will be considered closed.



SOUTHLAND REGIONAL
ASSOCIATION OF REALTORS®, INC.

- (7) If more than three Citations are issued to a REALTOR®/MLS Participant during any three-year period, whether accepted or not, any subsequent complaint will be processed as in the case of any other ethical complaint. A record of accepted Citations will be maintained by the Association solely for purposes of tracking the number of Citations during said three-year period, and will not become part of the REALTOR®/MLS Participant's permanent file.
- (8) If a Citation is accepted, there can be no appeal. In the event of any disagreement concerning the Citation rules, or their implementation, the Association may refer to the CAR Citation policy for guidance.

See CODE Section 8; ETHICS-MAN Section A(5)