

Citation Policy

The Past Presidents of the Cape Fear REALTORS® shall constitute the Citation Panel. Participation is limited to those who have completed the required training. When necessary, the President may appoint a member from among the Professional Standards Committee to insure timely processing. At least three (3) individuals, shall review complaints to determine eligibility for the citation program and the appropriate citations.

Complaints must be 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.

Only violations based on Articles or Standards of Practice cited in this Policy shall be cited. The Panel cannot impose fines in excess of those in the policy, and citations cannot be utilized more frequently than provided for in this policy.

Initial Review by Grievance Committee and Citation Panel

- I. When a Grievance Committee receives a written ethics complaint, it will review the complaint consistent with Sections 19 and 20 of the current NAR *Code of Ethics and Arbitration Manual*. The Grievance Committee may add or delete articles or respondents at this stage in the proceedings. The staff shall redact the identities of the parties where necessary to insure anonymity.
- II. If the Grievance Committee determines that the complaint should be forwarded for a hearing, the Grievance Committee will first forward the complaint to the Association's Citation Panel to determine if it includes allegations covered by the Citation Schedule, i.e., if it is a "citable offense".
 - A. If the complaint does not include alleged violations included in the Citation Schedule, or it includes some covered by the Citation Schedule and some that are not, the complaint shall be referred to the Professional Standards Committee for hearing consistent with the policies and procedures set forth in the *Code of Ethics and Arbitration Manual* for ethics hearings.
 - B. If the complaint includes *only* allegations of violations included in the Citation Schedule, the Citation Panel shall issue a citation pursuant to Section III (below) and impose discipline consistent with the Association's Citation Schedule. In the event the members of the Citation Panel determine the conduct described in the complaint is sufficiently egregious to warrant a hearing rather than a citation, the complaint shall be referred to the Professional Standards Committee for hearing consistent with the policies and procedures set forth in the *Code of Ethics and Arbitration Manual* for ethics hearings.

Issuance of Citations

- I. Citations shall be sent to respondents. A copy of the citation shall also be sent to the REALTOR® principal of respondent's office. If the respondent changes firms before or after the complaint is filed but before the citation is issued, both the former and current REALTOR® principal will receive a copy of the citation.
 - A. Staff will prepare a written summary of the complaint and the summary will be included with the citation to give the respondent sufficient information to understand the basis of the citation.
 - B. The complaint itself and the identity of the complainant shall be kept confidential and unavailable to the respondent. The complainant who does not file anonymously shall be advised when filing a complaint that their identity will not remain confidential should the respondent request a hearing.
- II. The respondent will have twenty (20) days from transmission of the citation to request a full due process hearing on the complaint.
 - A. If the respondent does not reply within ten (10) days of transmission of the citation, a notice shall be issued to the respondent reminding the respondent of the deadline for requesting a hearing.
 - B. If the respondent accepts the citation, or if the respondent does not request a hearing within twenty (20) days of transmission of the citation, this shall be deemed to be a final resolution of the complaint, which shall not be appealable or subject to any further review.
 - C. If the respondent accepts the citation, or if the respondent does not request a hearing within twenty (20) days of transmission of the citation, payment must be received by the association no later than three (3) business after the date of acceptance or time period to request a hearing has elapsed.
 1. The case will be deemed to be closed upon receipt of payment, and notice will be provided to the complainant that a citation has been issued and paid.
 2. Failure to pay the citation amount within (3) business after the date of acceptance or after the time period to request a hearing has expired will result in the automatic suspension of membership until the citation has been paid.
 - D. If the respondent requests a hearing within the time specified, the complaint shall be referred for hearing. The complainant who initially filed the complaint shall be given the option to proceed as the complainant for the purposes of the hearing, and will be afforded all due process rights provided for in the

Code of Ethics and Arbitration Manual. Should the complainant be a member of the public who refuses or is unable to participate in the hearing, or should the complainant be a REALTOR® member who refuses or is unable to participate in the hearing, or where it is an anonymous complaint, the provisions of Section 21(f)(3) in the NAR *Code of Ethics and Arbitration Manual* shall apply.

Limitations

- I. Any REALTOR® is limited in the number and type of citations that s/he may receive, according to the following rules:
 - A. No more than two (2) citations will be issued to a REALTOR® within a consecutive twelve (12) month period, starting on the date the first complaint was filed, at the same association.
 - B. No more than three (3) citations will be issued to a member within a consecutive thirty-six (36) month period, starting on the date the first complaint was filed, at the same association.
 - C. No additional citations are permitted where the cumulative fine for the citations issued would be more than \$4,500 in any three (3) year period at the same association.
 - D. CFR adopts an escalating fine schedule for repeat citations. Since an escalating fine schedule is used, the citation panel may only consider the past citations for the particular conduct alleged in the complaint.
- II. The fact that a respondent has previously been issued a citation for any violation – whether or not it was paid – shall not be admissible in any ethics or arbitration hearing, including a hearing to consider a complaint where the respondent rejected a citation and requested a hearing. A hearing panel may consider citations previously issued to the respondent for the purpose of determining appropriate discipline as provided in Subsection IV below.
- III. Citations will not be considered in any publication of violations should such rules be adopted by the association.
- IV. Where a hearing panel finds a violation of the Code of Ethics after a hearing, it may consider past citations in determining an appropriate sanction only if the citation was issued for the same violation at issue in the hearing. By way of example, if a citation was issued for failure to disclose a dual or variable rate commission under Standard of Practice 3-4, that citation could not be considered if a hearing panel later found a violation of Article 3 on some other grounds. Hearing panels will not be informed of past citations for other violations.
- V. Association staff will track the number of citations issued, the number of citations paid, and the violations for which citations were issued. This information may be

provided in the aggregate to the Board of Directors, but will not include details about the complaints, nor identify the complainants or respondents.

Effective January 1, 2016 the Panel will follow the Citation Schedule.

Citation Schedule of Fines

Article Cited	Applicable Article and Standard of Practice	Fine	Ethics Training available in lieu of or in addition to fine?
Article 1			
Failure to fully disclose and obtain consent from both parties when representing both the seller/landlord and buyer/tenant in the same transaction	Article 1, supported by Standard of Practice 1-5	1 st =\$500 2 nd =\$1,500 3 rd =\$2,500	N
Failure to advise sellers/landlords of information specified in Standard of Practice 1-12 prior to entering into a listing contract	Article 1, supported by Standard of Practice 1-12	1 st =\$1,000 2 nd =\$1,500 3 rd =\$2,500	N
Failure to advise buyers/tenants of information specified in Standard of Practice 1-13 prior to entering into a buyer/tenant agreement	Article 1, supported by Standard of Practice 1-13	1 st =\$1,000 2 nd =\$1,500 3 rd =\$2,500	N
Accessing or using, or allowing others to access or use, a property managed or listed on terms other than those authorized by the owner or seller	Article 1, supported by Standard of Practice 1-16	1 st =\$1,500 2 nd =\$2,000 3 rd =\$3,000	N
Article 3			
Failure to communicate a change in compensation for cooperative services prior to the time that REALTOR® submits an offer to purchase/lease the property	Article 3, supported by Standard of Practice 3-2	1 st =\$1,000 2 nd =\$2,500 3 rd =\$3,500	N
As a listing broker, attempting to unilaterally modify the offered compensation with respect to a cooperative transaction after a REALTOR® has submitted an offer to purchase or lease that property	Article 3, supported by Standard of Practice 3-2	1 st =\$2,000 2 nd =\$3,000 3 rd =\$4,000	N
Failure to disclose to cooperating brokers differential that would result in dual or variable rate commission arrangement if sale/lease results through efforts of seller/landlord	Article 3, supported by Standard of Practice 3-4	1 st =\$1,500 2 nd =\$2,000 3 rd =\$3,000	N
Failing to disclose existence of accepted offers, including offers with unresolved contingencies, to cooperating brokers	Article 3, supported by Standard of Practice 3-6	1 st =\$2,500 2 nd =\$3,000 3 rd =\$4,000	N

Article Cited	Applicable Article and Standard of Practice	Fine	Ethics Training available in lieu of or in addition to fine?
Misrepresenting the availability of access to show or inspect a listed property	Article 3, supported by Standard of Practice 3-8	1 st =\$2,500 2 nd =\$3,000 3 rd =\$4,000	N
Providing access to listed property on terms other than those established by the owner or the listing broker	Article 3, supported by Standard of Practice 3-9	1 st =\$2,500 2 nd =\$3,000 3 rd =\$4,000	N
Article 4			
Failing to disclose REALTOR®'s ownership or other interest in writing to the purchaser or their representative	Article 4 (second sentence)	1 st =\$3,500 2 nd =\$4,000 3 rd =\$4,500	N
Article 6			
Accepting any commission, rebate, or profit on expenditures without client's knowledge or consent	Article 6 (first paragraph)	1 st =\$2,500 2 nd =\$3,000 3 rd =\$4,000	N
Failure to disclose to a client or customer REALTOR®'s financial benefits or fees received as a direct result of recommending real estate products or services	Article 6 (second paragraph)	1 st =\$2,500 2 nd =\$3,000 3 rd =\$4,000	N
Failure to disclose REALTOR®'s direct interest in an organization or business entity when recommending to a client or customer that they use the services of that organization or business entity	Article 6, supported by Standard of Practice 6-1	1 st =\$3,500 2 nd =\$4,000 3 rd =\$4,500	N
Article 12			
Failure to provide all terms governing availability of a "free" product or service in an advertisement or other representation	Article 12, supported by Standard of Practice 12-1	1 st =\$1,000 2 nd =\$1,500 3 rd =\$2,500	Y-1 Time
Failure to disclose potential to obtain a benefit from third party when REALTOR® represents their services as "free" or without cost	Article 12, supported by Standard of Practice 12-2	1 st =\$1,000 2 nd =\$1,500 3 rd =\$2,500	Y-1 Time
Failure to exercise care and candor when communicating the terms and conditions of premiums, prizes, merchandise discounts or other inducements to list, sell, purchase, or lease	Article 12, supported by Standard of Practice 12-3	1 st =\$1,000 2 nd =\$1,500 3 rd =\$2,500	Y-1 Time
Advertising property for sale/lease without authority of owner or listing broker	Article 12, supported by Standard of Practice 12-4	1 st =\$1,500 2 nd =\$2,000 3 rd =\$3,000	Y-1 Time
Failing to disclose name of firm in advertisement for listed property	Article 12, supported by Standard of Practice 12-5	1 st =\$500 2 nd =\$1,000 3 rd =\$2,000	Y-1 Time

Article Cited	Applicable Article and Standard of Practice	Fine	Ethics Training available in lieu of or in addition to fine?
Failing to disclose status as both owner/landlord and REALTOR® or licensee when advertising property in which REALTOR® has ownership interest	Article 12, supported by Standard of Practice 12-6	1 st =\$500 2 nd =\$1,000 3 rd =\$2,000	Y-1 Time
Falsely claiming to have “sold” property	Article 12, supported by Standard of Practice 12-7	1 st =\$1,500 2 nd =\$2,000 3 rd =\$3,000	N
Failure to take corrective action when it becomes apparent that information on a REALTOR®’s website is no longer current or accurate	Article 12, supported by second sentence of Standard of Practice 12-8	1 st =\$500 2 nd =\$1,000 3 rd =\$2,000	Y-1 Time
Failure to disclose firm name and state of licensure on REALTOR® firm website	Article 12, supported by Standard of Practice 12-9	1 st =\$500 2 nd =\$1,000 3 rd =\$2,000	Y-1 Time
Misleading consumers through deceptive framing, manipulating content, deceptively diverting internet traffic, or presenting other’s content without attribution or permission	Article 12, supported by Standard of Practice 12-10	1 st =\$1,500 2 nd =\$2,000 3 rd =\$3,000	N
Registering or using of deceptive URL or domain name	Article 12, supported by Standard of Practice 12-12	1 st =\$1,500 2 nd =\$2,000 3 rd =\$3,000	N
Representing that the REALTOR® has a designation, certification, or other credential they are not entitled to use	Article 12, supported by Standard of Practice 12-13	1 st =\$2,000 2 nd =\$2,500 3 rd =\$3,500	N
Article 14			
Failing to cooperate in a professional standards proceeding or investigation in circumstances when cooperation has been demanded by the association and association has advised REALTOR® failure to cooperate could result in an allegation of a violation of Article 14	Article 14	1 st =\$2,500 2 nd =\$3,000 3 rd =\$4,000	N
Article 16			
Conditioning submission of a buyer’s offer on additional compensation from a listing broker	Article 16, supported by Standard of Practice 16-16	1 st =\$2,000 2 nd =\$2,500 3 rd =\$3,500	N
Placing for sale/lease sign on property without permission of seller/landlord	Article 16, supported by Standard of Practice 16-19	1 st =\$1,000 2 nd =\$1,500 3 rd =\$2,500	N

NOTE: Associations may adopt all or some of the above citations. No additional citations may be added. Fines for each citable offense, as well as any possible training requirements, must be established in advance and should be followed consistently.

Associations, at their discretion, may adopt an escalating fine schedule for repeat citations and also may impose a training requirement in addition to or as an alternative to payment of a fine for any of the citable offenses adopted. If an escalating fine schedule is adopted, it may only be used in circumstances where citations are issued by the same association.

The amount of fine for any citation is at the option of the association, but aggregated fines levied against any member may not exceed \$4,500 in any three (3) year period.

No more than 2 citations in 12 month period. No more than 3 citations in a 36 month period.

