

## CITATION POLICY AND SCHEDULE

### ***Citation Policy***

The overall purpose of a Citation Policy is twofold. First, it helps create better compliance with the Code of Ethics. Second, it provides an expeditious and convenient way for participants and subscribers who admit the infraction to pay a fine rather than being exposed to a full hearing. The purpose of a citation system is NOT to replace the hearing process. Participants and subscribers must still be provided the right to a full hearing to assure they have been given due process.

Under the Citation Policy, the Grievance Committee reviews a complaint (anonymous or with an identified complainant) and determines if the alleged conduct is a citable offense. A citable offense is conduct that is prohibited by the Citation Schedule (below). If the conduct is a citable offense, Association staff issues a citation.

Any REALTOR® receiving a citation may (1) complete specified training (at the option of the Association); (2) pay the amount specified on the citation; or (3) request a full hearing to contest the citation.

The following Citation Policy has been adopted by the Santa Barbara Association of REALTORS®.

- I. Complaint alleging violation of the Code of Ethics is received by the Association and channeled through the Grievance Committee:
  - A. Decision whether conduct is subject to citation is made by Grievance Committee.
    1. Assuming the allegations on the face of the complaint are true, is there a potential violation of the Code of Ethics?
    2. Assuming there is a potential violation of the Code of Ethics, is the conduct the type that is prohibited by the Citation Schedule that has been adopted by the AOR, i.e. a citable offense?
      - a. If the violator has already received a citation for violation of an MLS rule, for the same event and conduct, it is not eligible for citation.
      - b. If a citable offense,
        - i. Attached citation is sent to violator, with copy to DR.
        - ii. Citations are not used for purpose of possibly increasing discipline at future ethics hearings.
      - c. If conduct is not eligible for citation, but possible violation of the Code of Ethics is alleged,
        - i. Grievance Committee has authority to amend complaint with additional alleged violations of Code of Ethics and/or MLS Rules.
        - ii. Matter will be sent forward for full ethics hearing.
        - iii. All hearings are held in accordance with the *California Code of Ethics and Arbitration Manual* ("Manual").
        - iv. If violation is found by hearing panel, that information can be used to possibly increase discipline at future ethics hearings.
      - d. If no possible violation is alleged, complaint will be dismissed.
        - i. Complainant has right to request Directors' Review.
    - B. If conduct is a citable offense, upon receipt of citation, violator has 10 days to elect one of the following options:
      1. Pay the fine (amount is local discretion).
      2. Ethics Training (local option) – if offered to violator and this is chosen, violator will pay a fine (amount determined by local) and, at option of SBAOR, all or part will be refunded upon proof of completion.
      3. Elect full Ethics hearing to contest citation.
        - a. If hearing is elected, complaint is returned to Grievance Committee for further scrutiny and possible amendment with additional alleged violations of Code of Ethics and/or MLS Rules.
        - b. All hearings are held in accordance with the Manual.
          - i. If anonymous complaint, Grievance Committee is complainant;
          - ii. If identified complainant, he/she has full due process rights afforded under the procedures approved by NAR for disciplinary hearings.
        - c. Violator will have a full due process hearing where hearing panel, made up of members of the Professional Standards Committee, has the following options:

- i. Dismiss the citation and complaint
    - ii. Uphold the citation and corresponding fine
    - iii. Amend complaint by adding additional violations, as supported by the evidence,
    - iv. Increase the discipline, including any allowable sanction.
  - d. If violation is found by hearing panel, that information can be used to possibly increase discipline at future ethics hearings.
  - e. The results of hearings can be appealed to the Board of Directors, as set forth in the Manual.
- C. Failure to respond to citation within 10 days results in a warning letter (model attached) that the matter will be forwarded for full Ethics hearing if no response is received within 10 more days.
- D. Failure to respond to citation within 20 days from date of citation automatically results in full Ethics hearing, which opens up the possibility of any allowable sanction(s) determined by the hearing panel, including greater fine and possible suspension or expulsion from membership.
- E. If ethics training is elected, violation is kept in file only for purpose of keeping track of number of citations and the time frames in which they were given – the information is not used to possibly increase discipline at a future ethics hearing.
  1. Ethics training can only be elected once in any three (3) year period.
  2. Only three (3) citations may be issued to a violator within a three (3) year period.
    - a. When number of citations limit is reached, no further citation can be issued to that violator - all alleged violations must go to full due process hearing.
- F. Where an actual complainant reports the citable behavior – as opposed to an anonymous complaint or citation initiated by the Grievance Committee – notification of the action taken by the Grievance Committee would be given to the complainant (model attached).
- G. C.A.R. has published the attached model citation list.
  1. Local option:
    - a. Which citable offenses are adopted (local may adopt fewer than the entire list of citations, but may not add citable offenses).
    - b. Amount of fine for citable offense.
      - i. Fines cannot exceed maximum allowable by N.A.R.
      - ii. Locals may adopt, at their option, accelerated fines for multiple violations (i.e. the fine for a second offense is greater than for the first offense).
    - c. Whether ethics training can be taken by the violator as an alternative to paying the fine.

### ***Citation Schedule***

Citations for the following offenses may be up to the following amounts:

#### **Article 3:**

- Attempt to change offer of compensation after being made aware of signed offer to purchase; \$750
- Failure to disclose existence of dual or variable rate commission; \$250
- Failure to disclose existence of accepted offers to cooperating brokers; \$500

#### **Article 4:**

- Failure to disclose REALTOR® interest in property being bought or sold; \$500

#### **Article 5:**

- Providing professional service without disclosing interest in property; \$500

#### **Article 6:**

- Accepting any commission, rebate or profit on expenditures without client's knowledge or consent; \$750

#### **Article 12:**

- Failure to present a true picture in real estate communications and advertising; \$500

- Failure to disclose professional status in advertising and other representations; \$250
- Failure to disclose compensation from 3<sup>rd</sup> party for services provided free to a client; \$500
- Advertisement offering to sell/lease property without authority of owner or listing broker; \$500
- Failure to disclose name of firm in advertisement for listed property; \$250
- Failure to disclose status as both owner/landlord and REALTOR® or licensee when advertising property in which REALTOR® has ownership interest; \$350
- Falsely claiming to have “sold” property; \$750
- Registration or use of deceptive URL or domain name; \$500

**Article 14:**

- Failure to cooperate in any professional standards proceeding or investigation; \$500

**Article 16:**

- Use of terms of an offer to modify listing broker’s offer of compensation; \$750
- Placement of for sale/lease sign on property without permission of seller/landlord; \$100