



**GREATER BERGEN
REALTORS®**

CITATION POLICY



**NATIONAL
ASSOCIATION *of*
REALTORS®**

WWW.GREATERBERGENREALTORS.COM

Ethics, Professionalism & The Code

Greater Bergen Association of Designated REALTORS® ongoing effort to increase professionalism in the marketplace for our membership and help expedite the ethics hearing process and guard the interests of the general public.

Where the word “REALTORS®” is used in this Code and Preamble, it shall be deemed to include REALTOR-Associates®.

While the Code of Ethics establishes obligations that may be higher than those mandated by law, in any instance where the Code of Ethics and the law conflict, the obligations of the law must take precedence.

How The Citation Policy Works

- A REALTOR® or member of the public can file a complaint in the customary manner.
- If the Citation Panel decides that the Articles cited in the complaint make the case eligible for the Citation System, the respondent will be notified and given twenty (20) days to elect to participate in the Citation System or request an ethics hearing.
- If the respondent agrees to the Citation System, they would pay the designated fine associated with that Article.
- Included in this booklet is a list of violations that are eligible for this process.

For a full description of ALL Code of Ethics violations, please visit: www.GreaterBergenRealtors.com or Call: 201.244.7000.

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Know The Facts How To Start Citation

- 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.
- 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 Greater Bergen REALTORS® 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 an ethics hearing(s).
 - B. If the complaint includes only allegations of violations included in the Citation Schedule, the Citation Panel will issue a citation and impose discipline consistent with the Greater Bergen 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.
 - C. When an ethics complaint and an arbitration request arising out of the same facts and circumstances are filed at the same time, the arbitration hearing shall be held first, and the citation(s) issued or ethics hearing held after the conclusion of the arbitration hearing consistent with Professional Standards Policy Statement #35, Separation of Ethics Complaint and Arbitration Request, Code of Ethics and Arbitration Manual.

How A Citation Is Issued

- I. Citations will be sent to respondents. A copy of the citation shall also be sent to the REALTOR® Principal of the respondents' 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. 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.
- A. Alternatively, the complaint itself and the identity of the complainant may be kept confidential and unavailable to the respondent. The practice of the Greater Bergen REALTORS® Association should be established in advance and followed consistently. This Association has adopted the practice of allowing the identity of the complainant to be kept confidential, the complainant 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 a twenty (20) day period after Greater Bergen REALTORS® ' transmittal of the citation request a full due process hearing on the complaint. ("The Hearing Request Period")
 - A. If the respondent does not reply within ten (10) days after Greater Bergen REALTORS® transmission of the citation request, a "Reminder Notice "shall be issued to the respondent of the deadline for the hearing request.
 - B. If the respondent accepts the citation in writing or if the respondent does not request a hearing prior to the expiration of the "Hearing Request Period", this shall be deemed to be a final resolution of the complaint, which shall not be appealable or subject to any further review.

II.B Continued...

A Citation which has been accepted by the respondent, or a citation for which the respondent does not request a hearing prior to the expiration of the Hearing Period, shall be referred to herein as an "Accepted Citation".

- 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 5 days 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 5 days 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, the provisions of Section 21(f)(3)* in the NAR Code of Ethics and Arbitration Manual shall apply.

*In the event that the complaint scheduled for a hearing is from a member of the public who refuses or is unable to attend the hearing and who has not requested a continuance in writing or who has not been granted a continuance, the complaint shall be referred back to the Grievance Committee. If the Grievance Committee determines that there is sufficient information for a Hearing Panel to consider (i.e., that there is clear, strong, and convincing proof), the complaint shall be amended to name the Grievance Committee as complainant and the hearing shall be continued to a new date. The respondent shall be provided with a copy of the amended complaint in such cases. (Revised 5/12) If the Grievance Committee determines that there is insufficient information for a Hearing Panel to consider, the complaint shall be dismissed. In the event the complaint scheduled for hearing is from a REALTOR® or REALTOR-Associate® who has not requested a continuance in writing or who has not been granted a continuance, and who refuses or is unable to attend the hearing, the complainant shall be advised that refusal to participate in the hearing, absent a satisfactory reason, may result in a charge that the complainant has violated Article 14's obligation to place all pertinent facts before an appropriate tribunal of the Board. (Revised 5/12) If the REALTOR® or REALTOR-Associate® complainant continues to refuse a duly noticed request to appear, or if the complainant is excused from appearing for reasons deemed valid by the Hearing Panel, the hearing shall not take place, but rather the complaint shall be referred back to the Grievance Committee. If the Grievance Committee determines that there is sufficient information for a Hearing Panel to consider (i.e., that there is clear, strong, and convincing proof), the complaint shall be amended to name the Grievance Committee as complainant and the hearing shall be continued to a new date. The respondent shall be provided with a copy of the amended complaint in such cases.

Limitations

- I. Any REALTOR® is limited in the number and type of citations that he/she may receive, according to the following rules:
 - A. No more than two (2) citations will be issued to a REALTOR® member within any consecutive twelve (12) month period, starting on the date the first complaint was filed at Greater Bergen REALTORS®.
 - B. No more than three (3) citations will be issued to a REALTOR® member within any consecutive thirty-six (36) month period, starting on the date the first complaint was filed at Greater Bergen REALTORS®.
 - No additional citations are permitted where the cumulative fine for the citations issued would be more than five thousand (\$5000.00) dollars in any three (3) year period at Greater Bergen REALTORS®.
- D. Greater Bergen REALTORS® has elected to adopt an escalating fine schedule for repeat citations. Greater Bergen REALTORS®' Professional Standards Administrator may only consider past "Accepted Citations" for the particular conduct alleged in the complaint.
- E. The respondent must take the 2.5-hour ethics course either in person or online. The online course must be proctored at a local board/association. Proof of completion must be submitted to Greater Bergen REALTORS® within 60 days from the issuance of citation.

- 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 publications of violations should such rules be adopted by Greater Bergen REALTORS®.
- IV. Greater Bergen REALTORS®' Professional Standards Administrator 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 of Greater Bergen REALTORS®, but will not include the details about the complaints, not identify the complainants or respondents.
- 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.
- VI. The allegations, discussions and decisions made in the citation process are confidential and shall not be reported or published by the board, any member of a tribunal, or any party under any circumstances except those established in Limitations, Section V of this policy and the *Code of Ethics and Arbitration Manual* of the National Association as from time to time amended.

Code Of Ethics Violations & Fines

	APPLICABLE ARTICLE & STANDARD OF PRACTICE	FINE (FIRST OFFENSE)	FINE (SECOND OFFENSE)	FINE (THIRD OFFENSE)
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.	(SOP 1-5)	\$500	\$1,500	\$2,500
Failure to submit offers and counteroffers objectively and as quickly as possible.	(SOP 1-6)	\$250	\$750	\$1,250
Failure on the part of a listing broker to provide written notification that the Seller/Landlord has waived the obligation to have the offer presented, upon written request of a cooperating broker submitting an offer.	(SOP 1-7)	\$500	\$1,500	\$2,500
Failure to advise Sellers/Landlords of information specified in the Standard of Practice 1-12 prior to entering into a listing contract.	(SOP 1-12)	\$500	\$1,500	\$2,500
Failure to advise Buyer/Tenants of information specified in Standard of Practice 1-13 prior to entering into a Buyer/Tenant agreement.	(SOP 1-13)	\$500	\$1,500	\$2,500
Associating or using or allowing others to associate or				

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.	(SOP 1-16)	\$750	\$2,250	\$3,750
Article 3				
Failure to communicate a change in compensation for cooperative services prior to the time that REALTORS® submits an offer to purchase/lease the property.	(SOP 3-2)	\$500	\$1,500	\$2,500
As a listing broker, attempting to unilaterally modify the offered compensation with respondent to a cooperative transaction after a REALTOR® has submitted an offer to purchase or lease that property.	(SOP 3-2)	\$400	\$1,200	\$2,000
Failing to disclose existence of dual or variable rate commission arrangement.	(SOP 3-4)	\$400	\$1,200	\$2,000
Failing to disclose existence of accepted offers, including offers with unresolved contingencies, to cooperating broker.	(SOP 3-6)	\$300	\$900	\$1,500
Misrepresenting the availability of access to show or inspect a listed property.	(SOP 3-8)	\$500	\$1,500	\$2,500
Providing access to listed property on terms other than those established by the owner or the listing broker	(SOP 3-9)	\$500	\$1,500	\$2,500

Code Of Ethics Violations & Fines

	APPLICABLE ARTICLE & STANDARD OF PRACTICE	FINE (FIRST OFFENSE)	FINE (SECOND OFFENSE)	FINE (THIRD OFFENSE)
Article 4				
Failing to disclose REALTOR®'s ownership or other interest in writing to the purchaser or their representative	(SOP 4)	\$500	\$1,500	\$2,500
Article 5				
Providing professional services without disclosing REALTOR®'s present interest in property.	(SOP 5)	\$500	\$1,500	\$2,500
Article 6				
Accepting any commission, rebate, or profit on expenditures without client's knowledge or consent.	(SOP 6)	\$500	\$1,500	\$2,500
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.	(SOP 6)	\$500	\$1,500	\$2,500
Failure to disclose REALTOR®'s direct interest in an organization or business entity when	(SOP 6-1)	\$500	\$1,500	\$2,500

recommending to a client or customer that they use the services of that organization or business entity.	Article 12	Failing to present a true picture in real estate communications and advertising.	(SOP 12)	\$350	\$1,050	\$1,750
	Failing to disclose status as real estate professional in advertising and other representation.	(SOP 12)	\$250	\$750	\$1,250	
	Failure to provide all terms governing availability of a "free" product or service in an advertisement or other representation.	(SOP 12-1)	\$500	\$1,500	\$2,500	
	Failure to disclose potential to obtain a benefit from third party when REALTOR® represents their services as "free" or without cost.	(SOP 12-2)	\$500	\$1,500	\$2,500	
	Failure to exercise care and candor when communicating the terms and conditions of premiums, prizes, merchandise discount or together inducements to list, sell, purchase, or lease	(SOP 12-3)	\$500	\$1,500	\$2,500	
	Advertising property for sale/lease without authority of owner or listing broker.	(SOP 12-4)	\$750	\$2,250	\$3,750	

Code Of Ethics Violations & Fines

APPLICABLE ARTICLE & STANDARD OF PRACTICE	FINE (FIRST OFFENSE)	FINE (SECOND OFFENSE)	FINE (THIRD OFFENSE)
Article 12 - Continued			
Failing to disclose name of firm in advertisement for listed property.	(SOP 12-5)	\$450	\$1,350
Failing to disclose status as both owner/landlord and REALTOR® or licensee when advertising property in which REALTOR® has ownership interest.	(SOP 12-6)	\$500	\$1,500
Falsely claiming to have "sold" property.	(SOP 12-7)	\$500	\$1,500
Failure to take corrective action when it becomes apparent that information on a REALTOR®'s website is no longer current or accurate	(SOP 12-8)	\$250	\$750
Failure to disclose firm name and state of licensor on REALTOR® firm website	(SOP 12-9)	\$250	\$750
Misleading consumers through deceptive framing, manipulating content, deceptively diverting inherent	(SOP 12-10)	\$500	\$1,500

Registering or using a deceptive URL or domain name	(SOP 12-12)	\$250	\$750	\$1,250
Representing that the REALTOR® has designation, certifications or other credential they are not entitled to use	(SOP 12-13)	\$500	\$1,500	\$2,500
Article 14				
Failing to cooperate in a professional standard 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	(SOP 14)	\$500	\$1,500	\$2,500
Article 16				
Conditioning submission of a Buyer's offer on additional compensation from a listing broker	(SOP 16-16)	\$500	\$1,500	\$2,500
Placing a for Sale/Lease sign on a property without permission of Seller/Landlord	(SOP 16-19)	\$500	\$1,500	\$2,500

Additional Resources

C2EX
www.c2ex.realtor

National Association of REALTORS®
www.NAR.gov

New Jersey REALTORS®
www.njrealtor.com

Greater Bergen REALTORS®
www.GreaterBergenRealtors.com



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