

It's Your Code! Use it!

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History of the Code

- A. 1913 to now
- B. How the Code of Ethics has changed

"Business ethics"

- A. What are "business ethics?"
- B. Business ethics and legal standards
- C. Business ethics and the REALTOR® Code of Ethics

The Structure of the Code of Ethics

- A. Three major sections
- B. Articles
- C. Standards of Practice
- D. Case Interpretations

Pathways to Professionalism

- A. Respect for the Public
- B. Respect for Property
- C. Respect for Peers

Enforcement of the Code of Ethics

- A. Local – State – National Roles
- B. Due Process – The Foundation of Code Enforcement
- C. Types of Cases: Ethics Cases and Arbitration Cases
- D. The Ethics Enforcement Process
- D. Grievance Committee
- F. Professional Standards Hearing Panel
- G. Authorized Discipline (and administrative processing fees)
- H. Board of Directors Role

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Monetary Disputes

- A. The Arbitration Process
- B. Grievance Committee
- C. Mandatory vs. Voluntary
- D. Professional Standards Hearing Panel
- E. A word about Mediation.....

Concepts of Procuring Cause in Arbitration

- A. NAR's Arbitration Guidelines
- B. Found in the Code of Ethics and Arbitration Manual.
- C. Guidance to Hearing Panels as to how to determine procuring cause in arbitration hearings.
- D. Also referred to as "Suggested Factors for Consideration by a Hearing Panel in Arbitration."
- E. Guidelines focus on "procuring cause" as the basis for resolving most commission disputes between brokers.
- F. Key Factors in a Procuring Cause Dispute
 1. No predetermined rule of entitlement may be established by an association.
 2. Hearing Panels should consider the entire course of events.
 3. Matters such as the first showing of the property, the writing of the successful offer or the existence of an agency relationship with the buyer are not, in themselves, exclusive determiners of procuring cause/entitlement.
 4. Communication and contact – abandonment and estrangement
 5. The key concepts of procuring cause are referenced in this definition from *Black's Law Dictionary*, Fifth Edition:

The proximate cause; the cause originating a series of events which, without break in their continuity, result in the accomplishment of the prime object.

Ethics Jeopardy!

Ethically Speaking...What would you do if?

Answer the questions following the situation. List the Article of the Code and/or Standard of Practice that relates to the situation if you can

1. Seller Cindy is furious when she came home to find cooperating agent REALTOR® Sam sitting on the front porch and prospective buyers wandering around inside the house. Sam explained that he had already accompanied the buyers through the house and they asked if they could have some time to view the home and talk about it amongst themselves. Sam didn't seem to think this was a problem since he was very close by. Seller Cindy sure thinks it is! What do you think? What Article and Standard of Practice applies to this situation?

2. Landlord Herman listed his home for rent and said it was in good condition with no apparent problems. REALTOR® Sheila found a qualified tenant quickly and relayed the landlord's statement that the home was in good shape. Two days after the tenant moved in, the public sewer line became clogged and a swarm of termites were found. The tenant is angry that Sheila represented the home to be in good condition. You immediately find a plumber and termite company to correct these problems. Could Sheila have predicted that these things would happen? What Article and Standard of Practice applies to this situation?

3. Seller Client Francis has verbally accepted an offer on his property at 145 Green St. REALTOR® Emily emailed him the offer and has been negotiating for several days over the phone because Francis is out of town. The offer was from cooperating broker Bonnie and Seller Francis planned to sign the contract this evening. Emily is leaving the office and receives a call from Prospective Buyer Alfred inquiring if 145 Green Street is still available. What should Emily tell Alfred about the status of this property? Should she tell Buyer Alfred there is already an offer on the property? Who should make the decision about disclosing the existence of an offer on a property? What Article and Standard of Practice applies to this situation?

4. Brand new agent REALTOR® Louis in your office is so excited that potential Seller & Buyer Charlie called in on his opportunity time and wants to sell his investment property and buy another one. He wants to avoid paying capital gains tax and would like to do a 1031 exchange. Louis doesn't recall learning about 1031 exchanges in pre licensing school. Should Louis disclose his lack of expertise in this area? Could he work with someone else in the office who is experienced in 1031 exchanges? What are his obligations under the Code? What Article applies to this situation?

5. REALTOR® Lois is looking for something interesting to put in her quarterly newsletter to prospective sellers in her waterfront community. She is searching the internet and finds a great article written by REALTOR® John about flood insurance and the importance of elevation certificates. She does her own research to make sure that all of the information is accurate in John's article. Can she use John's article in her newsletter? What Article and Standard of Practice applies to this situation?

6. Listing broker REALTOR® Sue has a contract on her listing contingent upon a home inspection. The contract falls through because the home inspection revealed that the furnace has a cracked heat exchanger and the seller refuses to fix it. The seller tells Sue to keep the inspection and the defect confidential and not to disclose the defect to any buyers or cooperating brokers. Listing Broker Sue tells the seller “no way” will she do that and cancels the listing. Six months later, listing broker Sue sees the property relisted with broker Sarah and wonders if the owner has replaced the furnace or fixed it. She sees nothing about it in the listing. Can former listing broker Sue tell listing broker Sarah about the latent material defect? What Article and Standard of Practice applies to this situation?

7. REALTOR® Howard has been licensed for almost 50 years. His daughter now works for the company and was trying to convince him to start advertising on the internet and develop a website for their company. She was showing him how, when she searched for their company, she ended up on competitor REALTOR® Danny’s website and was not happy to be losing this business. Upon further research she learned that REALTOR® Danny had registered Howard’s company name as a domain name and was using it to drive traffic to his own website. Howard had never registered his company name as a domain name. Can REALTOR® Danny use another companies name as a domain name? Can REALTOR® Danny register another companies name as a domain name? What Article and Standard of Practice applies to this situation?

8. REALTOR® Claudia felt confident she would get the listing of Seller Ronald’s home. She was a friend of the family and had gone to school with his children. Several days after the listing appointment, Seller Ronald’s home came on the market with REALTOR® Paul of XYZ Realty in the MLS. Claudia wanted to contact Seller Ronald to find out what she had done wrong or find out why he chose REALTOR® Paul over her. Can REALTOR® Claudia call Seller Ronald and ask this question? What Article and Standard of Practice applies to this situation?

9. Listing broker REALTOR® Joan takes a listing on seller client Mark’s house and agrees to X% commission if her firm is successful in selling Mark’s house or XX% commission if a sale results through the efforts of a cooperating broker. Noting this in the MLS, cooperating broker REALTOR® Jim contacts Joan to find out what the differential is before writing up an offer for his buyer client? Does Joan have to disclose the difference in commission if sold in-house vs. thru a cooperating broker? Does Jim have to disclose this to his buyer client? What Article and Standard of Practice applies to this situation?

10. Listing Broker REALTOR® Samantha lists Seller David’s property at 126 Spruce St. Seller David has directed her not to offer compensation to non-agents (facilitators, transaction brokers) in the MLS. REALTOR® Joe who works in Samantha’s office showed the property to Buyer Mark who is very interested. Cooperating Broker REALTOR® Sydney is Buyer Mark’s cousin and she writes the offer contingent upon her firm being compensated directly by the seller. Samantha is not aware that REALTOR® Joe has also shown the property to Buyer Mark. Seller David agrees to compensate Broker Sydney’s firm provided that Samantha agrees to reduce her fee by the amount he is paying the cooperating broker. Samantha agrees and contracts are signed immediately. REALTOR® Joe learns that Buyer Mark bought the property through Broker Sydney and is very upset. After closing, can Samantha’s firm file a request for Arbitration claiming to be procuring cause? What Article and Standard of Practice applies to this situation?