

THE CODE OF ETHICS:

Our Promise of Professionalism

**The REALTORS® Code of Ethics
Member Education Program**



**NATIONAL
ASSOCIATION OF
REALTORS®**

REALTORS® are members of the National Association of REALTORS®.



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Course Objectives

1

Identify key aspirational concepts found in the Preamble to the NATIONAL ASSOCIATION OF REALTORS® Code of Ethics

2

Describe “general business” ethics, and compare and contrast the REALTORS® Code of Ethics with business ethics, generally

3

Describe the concepts established in Articles 1, 2, 12, and 17 of the Code of Ethics and identify possible violations of the Code specifically related to those Articles

4

Describe the professional standards process for enforcing the Code of Ethics, including the duty to arbitrate

5

Identify critical elements of due process as they relate to Code enforcement

6

Identify factors considered by hearing panels in procuring cause disputes.

Ice-Breaker Exercise

1.	Make only truthful and objective statements.	
2.	Avoid the unauthorized practice of law.	
3.	Participate in professional standards enforcement.	
4.	Keep client funds in separate escrow accounts.	
5.	Receive compensation from one party only with informed consent.	
6.	Respect exclusive relationships.	
7.	Cooperate with other brokers.	
8.	Disclose present or contemplated interests in property.	
9.	Treat all parties honestly.	
10.	Arbitrate contractual disputes.	
11.	Avoid using epithets or slurs against protected classes.	
12.	Make your “true position” known when presenting offers.	
13.	Be competent in your field of practice.	
14.	Get transactional details in writing.	
15.	Disclose pertinent facts.	
16.	Disclose financial benefits from recommending products/services.	
17.	Paint a true picture in advertising.	

Ice-Breaker Answers

1.	Make only truthful and objective statements.	Article 15
2.	Avoid the unauthorized practice of law.	Article 13
3.	Participate in professional standards enforcement.	Article 14
4.	Keep client funds in separate escrow accounts.	Article 8
5.	Receive compensation from one party only with informed consent.	Article 7
6.	Respect exclusive relationships.	Article 16
7.	Cooperate with other brokers.	Article 3
8.	Disclose present or contemplated interests in property.	Article 5
9.	Treat all parties honestly.	Article 1
10.	Arbitrate contractual disputes.	Article 17
11.	Avoid using epithets or slurs against protected classes.	Article 10
12.	Make your “true position” known when presenting offers.	Article 4
13.	Be competent in your field of practice.	Article 11
14.	Get transactional details in writing.	Article 9
15.	Disclose pertinent facts.	Article 2
16.	Disclose financial benefits from recommending products/services.	Article 6
17.	Paint a true picture in advertising.	Article 12

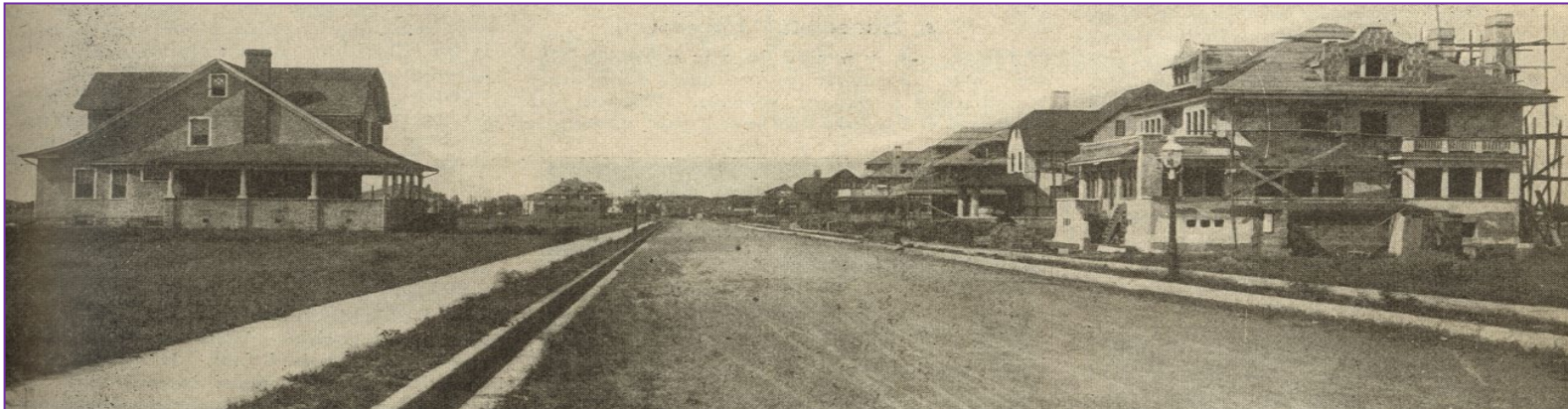
PART 1:

History of the Code of Ethics



Pre-1900

- No licensing of real estate practitioners
- Speculation, exploitation, and disorder
- *Caveat emptor* governed transactions.



NATIONAL ASSOCIATION OF REALTORS®

Formed in 1908

Known then as the National
Association of Real Estate
Exchanges



Code of Ethics Adopted in 1913

- Established professional standards for conduct
- First ethical code for business after medicine, engineering, and law
- Focused on:
 - Service to the public
 - Commitment to professionalism
- Included “Duties to Clients” and “Duties to Other Brokers”

The Code of Ethics was the basis for later-adopted license laws.



The Code of Ethics:



Since its inception, the Code has required:

- Arbitration of contractual disputes between/among REALTORS®
- Respect for other brokers' exclusive relationships with clients
- Cooperation between/among REALTORS®

Business Ethics, NAR Code of Ethics, and Pathways to Professionalism

Business Ethics

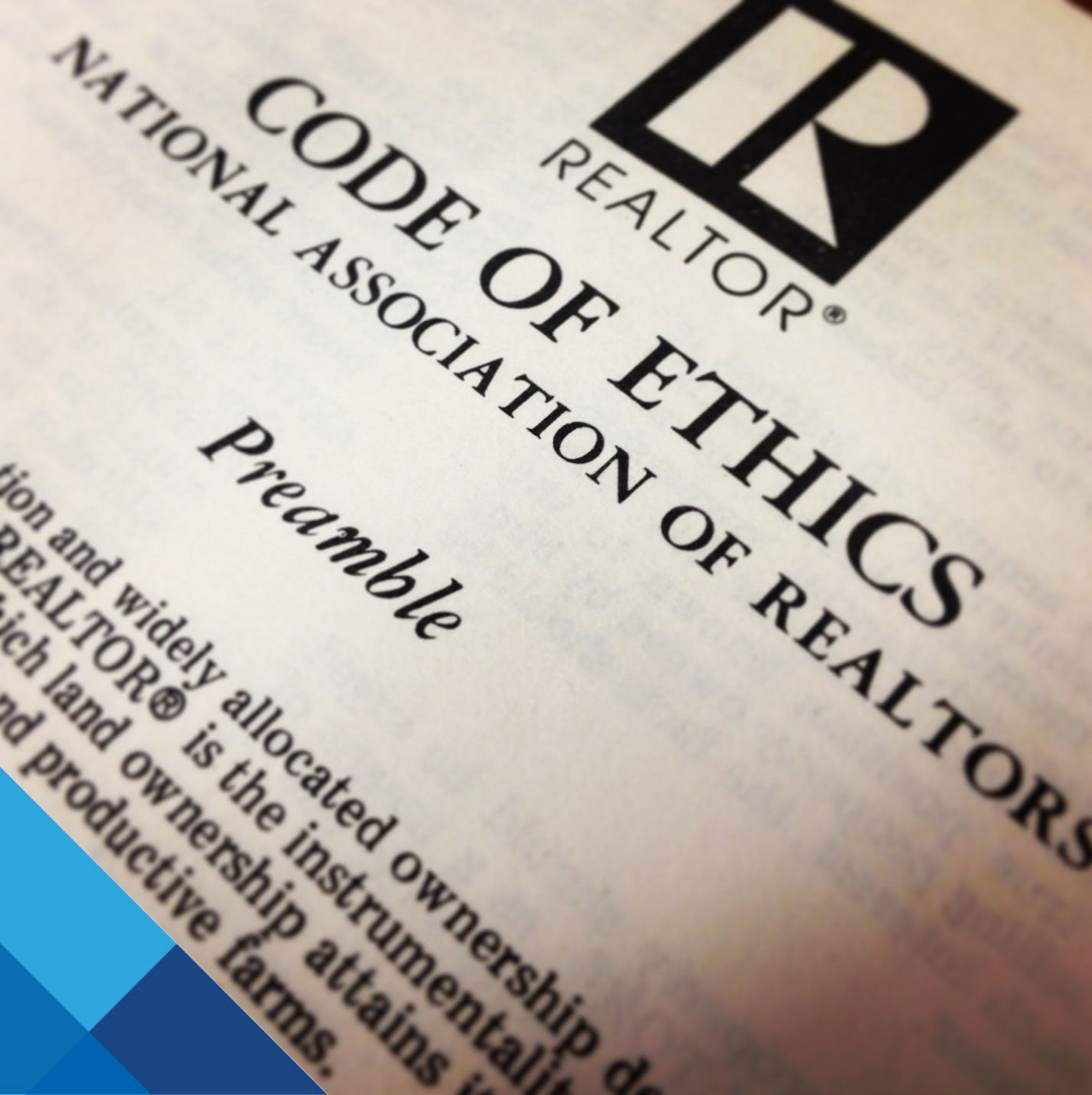
- Industry codes
- Company Policies
- Individual moral values
- Business ethics and legal standards



REALTORS® Share One Common Characteristic:

Regardless of real estate business specialty (such as appraisal, property management, etc.), **all** REALTORS® are bound by the Code of Ethics.





Preamble to the Code of Ethics

An aerial photograph of a vast, rolling landscape in Tuscany, Italy. The terrain is characterized by undulating hills covered in a mix of brown, tilled earth and patches of green vegetation. In the middle ground, a small cluster of buildings, likely a village or farmstead, is nestled on a hillside. A prominent white farmhouse with a red-tiled roof stands out in the foreground, surrounded by a few tall, slender cypress trees. The background shows more distant hills under a clear sky. The overall scene conveys a sense of rural tranquility and agricultural heritage.

Under all is the land...



Golden Rule

Whatsoever ye would
that others should do
to you, do ye even so
to them.

Alleged violations of the Preamble may not be the basis for disciplining a REALTOR®



Structure of the Code of Ethics

Three Sections



Structure of the Code of Ethics

17 Articles

- Each section is comprised of Articles, which are broad statements of ethical principles
- Only Articles of the Code may be violated

Structure of the Code of Ethics

Standards of Practice

- Support, interpret, and amplify each Article
- May not be charged, but may be cited in support of an alleged violation

How the Code of Ethics Evolves

- Amendments are made during the REALTORS® Legislative Meetings and NAR NXT – The REALTOR® Experience.
- Revisions require approval by the NAR Professional Standards Committee and Board of Directors.
- Interpretations and Procedures Subcommittee of the Professional Standards Committee recommends many of the changes.

**Any change to an Article of the Code
must be approved by the NAR
Delegate Body.**

The Code and the Law



The Code of Ethics:

- Must be reasonably construed with the law
- Imposes duties above and in addition to duties imposed by law or regulation
- Restates certain fundamental legal principles

Pathways to Professionalism



Three Sections

- Respect for the Public
- Respect for Property
- Respect for Peers

Pathways to Professionalism



Pathways to Professionalism Exercise

Courtesy

Service

Etiquette

PART 3:

Enforcement of the Code of Ethics



Enforcement of the Code of Ethics

- Every association is responsible for enforcing the Code.
- This includes providing mediation and conducting ethics and arbitration hearings.
- Only REALTORS® and REALTOR-ASSOCIATES® are subject to the Code.

Enforcement of the Code of Ethics

- An association where someone holds membership **OR** gains MLS access has jurisdiction to process ethics complaints and arbitration requests filed against that individual.
- Associations do **NOT** determine violations of law and regulation.

Association Dispute Resolution

Option #1 – Informal

- Ombudsman
- Mediation

Option #2 – Formal

- Ethics Complaints
- Arbitration Requests



Informal Dispute Resolution

Ombudsman Program

- Only available if offered by a local association.
- Voluntary process.
- Ombudsmen may field and respond to inquiries and complaints, solicit responses, and meet with disputing parties.
- Disputants reserve the right to file a formal ethics complaint.

Role of the Ombudsman

The ombudsman's role is primarily communication and conciliation, not adjudication.

Ombudsmen DO:

Anticipate, identify, and resolve misunderstandings and disagreements before matters ripen into disputes and charges of unethical conduct.

Ombudsmen DO NOT:

Determine whether ethics violations have occurred or who is entitled to what amount of money.



Ombudsmen can help repair breakdowns in communication and develop acceptable resolutions between disputing parties.

Informal Dispute Resolution Mediation

- Voluntary process, unless the Association (at its discretion) requires its REALTOR® members to mediate per Article 17.
- Enabling bylaw provisions (found in Article VII of the NAR Model Bylaws for Local Member Boards) must be adopted to mandate mediation.

Informal Dispute Resolution Mediation



- Disputing parties meet with a mediator appointed by the association.
- Parties create a mutually acceptable resolution of the dispute, rather than go before an arbitration hearing panel.

Mediation



- Preferred dispute resolution tool by the REALTOR® organization.
- Must be available to all REALTORS®
- May offer before OR after grievance committee's review.
- If offered before, must be offered again after the grievance committee determines the matter is arbitrable and forwards on to a hearing.

Mediation

If a resolution is reached, parties sign an agreement containing the terms of the settlement, and no arbitration hearing is held.



Differences Between Mediation and Arbitration

Mediation	Arbitration
Low cost	Moderate cost
Little delay	Moderate delay
Maximum range of solutions	Win / loose / split
Parties control the outcome	Arbitrators control the outcome
Uncertain closure	Definite closure
Maintains / improves relationships	May harm relationships

WHO can file an
ethics complaint?

Grievance Committee in Ethics

- Is there a **POTENTIAL** violation of the Code of Ethics?



Ethics Hearing Panel



- Following a hearing, the panel decides whether the Code of Ethics has been violated, proven **through Clear, Strong, and convincing** evidence.
- If a Code violation is found, then the panel also determines the discipline.

Authorized Discipline



- Letter of warning
- Letter of reprimand
- Education
- Fine, not to exceed \$15,000
- Probation of one year or less
- Suspension of not less than 30 days, nor more than one year
- Expulsion from membership for one to three years
- Suspension or termination of MLS privileges

The primary emphasis of discipline is educational, to create a heightened awareness of and appreciation for the Code of Ethics.



Filing an Arbitration Request

- Arbitration is conducted under Article 17 of the Code of Ethics **AND** under a state's arbitration statute (if any).
- Article 17 provides that arbitration occurs under the following circumstances...

Arbitration and Article 17

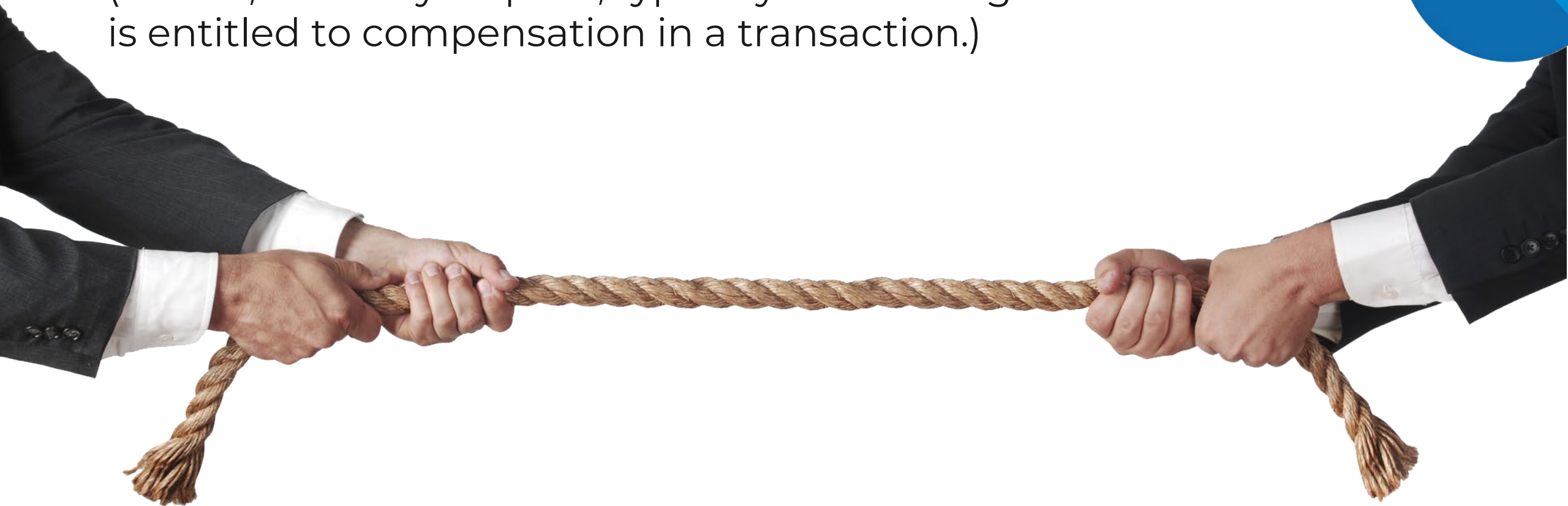
- Contractual or specific non-contractual disputes, as defined by Standard of Practice 17-4
- Between REALTORS® (principals)
- Arising out of their relationship as REALTORS®

NOTE: Clients also may arbitrate with their REALTOR® principals.

Grievance Committee in Arbitration

- Is there an **arbitrable** issue?

(That is, a money dispute, typically concerning which REALTOR® is entitled to compensation in a transaction.)



Arbitration Hearing Panel

- Conducts full “due process” hearing.
- Comprised of members from an association’s professional standards committee
- After a hearing, the panel decides which party is entitled to the award, based on **a preponderance of the evidence**.

Payment of an Arbitration Award

- An unpaid award typically may be judicially enforced.
- Some associations require that award monies be deposited with the association, pending review of the hearing process or during a legal challenge.



PART 4:

Concepts of Procuring Cause in an Arbitration



Arbitration Guidelines

- Found in the *Code of Ethics and Arbitration Manual*.
- Guide hearing panels in resolving arbitrable issues.
- Focus primarily on procuring cause as the basis for resolving most compensation disputes.

Procuring Cause Factors

- No pre-determiners.
- Consider the entire course of events.
- Writing an offer, making the first showing, or an agency relationship, in and of themselves, do not necessarily determine procuring cause or entitlement.

Procuring Cause

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

– Black's Law Dictionary, Fifth Edition

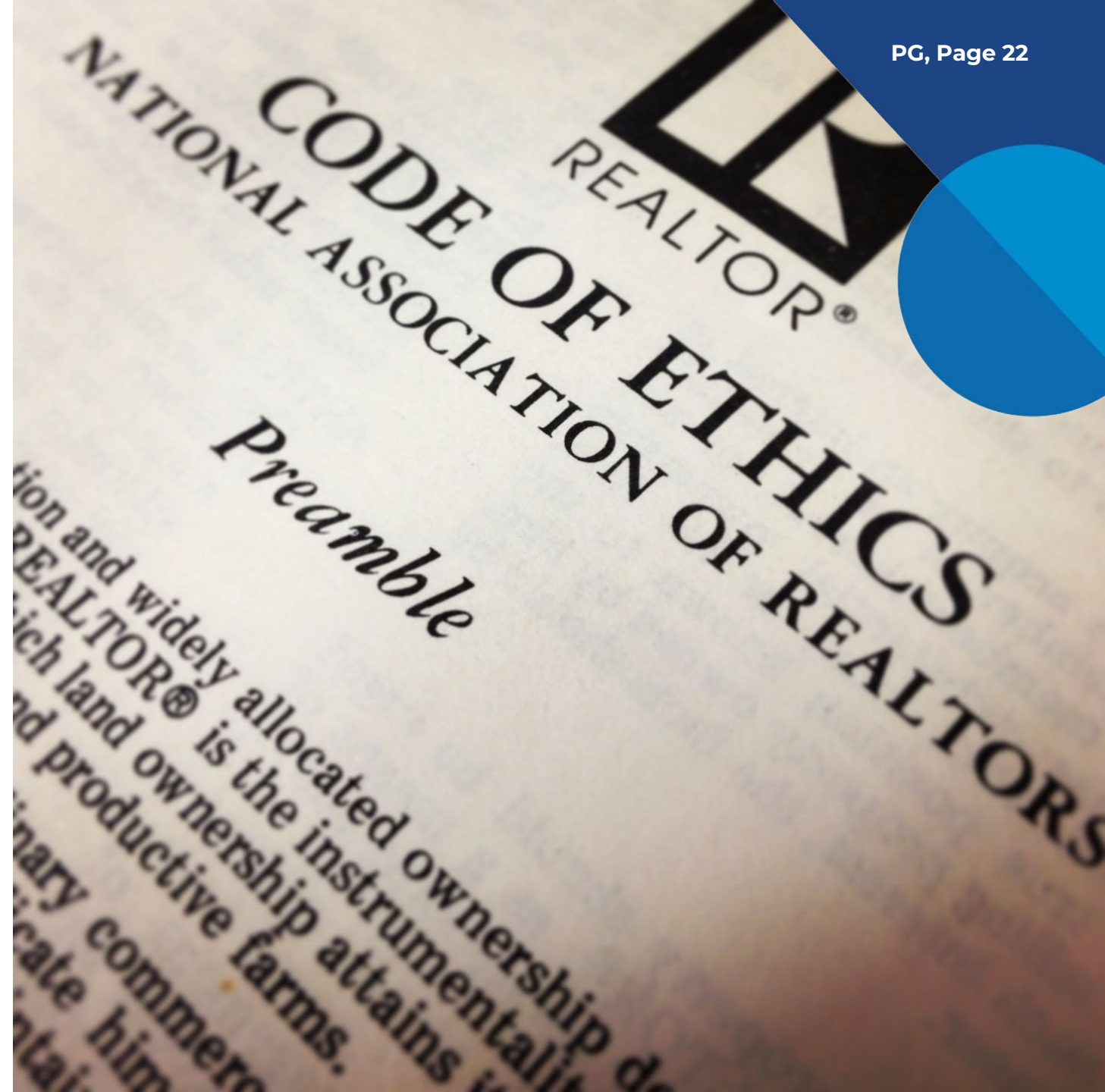
Procuring Cause

It is the squirrel that shakes the branch and not the squirrel that gathers the nut.

- Arkansas Supreme Court

PART 5:

Summaries and Case Studies of Selected Articles of the Code of Ethics



Article 1

- Protect and promote your client's interests.
- This obligation to your client is primary.
- Treat all parties honestly.
- Standard of Practice 1-2 defines terms such as “client”, “customer”, “agent”, and “broker”.

Article 1 Case Study

(Based on Case Interpretation #1-26)



Article 2

- Avoid **exaggeration, misrepresentation, and concealment** of pertinent facts about the property or the transaction.
- No obligation to discover latent defects, matters outside the scope of license, or matters confidential under agency or non-agency relationships.

Article 2 Case Study

(Based on Case Interpretation #2-7)



Article 12

- Requires truth and honesty in **ALL** real estate communications.



Article 12

- Be honest and truthful in real estate communications.
- Present a **“true picture”** in advertising, marketing, and other representations.
- Ensure that your status as a real estate professional is readily apparent in advertising, marketing, and other representations.

Article 12 Case Study #1

(Based on Case Interpretation #12-17)



Article 12 Case Study #2

(Based on Case Interpretation #12-19)



Article 17

- REALTORS® (principals) must arbitrate contractual and specific non-contractual disputes, as defined by SOP 17-4.
- Clients may invoke mandatory arbitrations with their REALTORS® (principals).
- REALTORS® are obligated to cause their firms to arbitrate.

Article 17 Case Study #2

(Based on Case Interpretation #17-1)



PART 6:

Pathways to Professionalism and Marketing the Code of Ethics



When to Look at the Code; Using the Code in all Communications

- The Code of Ethics is a great risk reduction tool.
- Let buyers and sellers know REALTORS® have agreed to the higher standards established in the Code of Ethics, as compared to license law.
- REALTORS® will act in their client's best interests.
- Use the Pledge of Performance in buying and listing presentations (available at nar.realtor).
- Wear and display your REALTOR® pin, explaining REALTORS® are committed to professionalism since 1913.
- Make the Code a key component in all professional correspondence.

Pathways to Professionalism

Three Sections, including 30 professional courtesies

- **Respect for Public**

- ✓ Respond to inquiries promptly; show courtesy and respect.

- **Respect for Property**

- ✓ Leave the property how you found it; also, avoid eating, drinking, smoking or using facilities (unless given permission).

- **Respect for Peers**

- ✓ Notify the listing broker if there appears to be inaccurate information in the listing, and remember real estate is a reputation business. What you do today may affect your reputation and business for years to come.

Case Study #1

(Based on Pathways to Professionalism)



Case Study #2

(Based on Pathways to Professionalism)



Conclusion



The REALTORS® Code of Ethics

Code of Ethics and Standards of Practice of the NATIONAL ASSOCIATION OF REALTORS®

Effective January 1, 2020

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.

Preamble

Under all is the land. Upon its wise utilization and widely allocated ownership depend the survival and growth of free institutions and of our civilization. REALTORS® should recognize that the interests of the nation and its citizens require the highest and best use of the land and the widest distribution of land ownership. They require the creation of adequate housing, the building of functioning cities, the development of productive industries and farms, and the preservation of a healthful environment.

Such interests impose obligations beyond those of ordinary commerce. They impose grave social responsibility and a patriotic duty to which REALTORS® should dedicate themselves, and for which they should be diligent in preparing themselves. REALTORS®, therefore, are zealous to maintain and improve the standards of their calling and share with their fellow REALTORS® a common responsibility for its integrity and honor.

In recognition and appreciation of their obligations to clients, customers, the public, and each other, REALTORS® continuously strive to become and remain informed on issues affecting real estate and, as knowledgeable professionals, they willingly share the fruit of their experience and study with others. They identify and take steps, through enforcement of this Code of Ethics and by assisting appropriate regulatory bodies, to eliminate practices which may damage the public or which might discredit or bring dishonor to the real estate profession. REALTORS® having direct personal knowledge of conduct that may violate the Code of Ethics involving misappropriation of client or customer funds or property, with discrimination, or fraud resulting in substantial economic harm, bring such matters to the attention of the appropriate Board of Association of REALTORS®, (Amended 1/00)

Realizing that cooperation with other real estate professionals promotes the best interests of those who utilize their services, REALTORS® urge exclusive representation of clients; do not attempt to gain any unfair advantage over their competitors; and they refrain from making unsolicited comments about other practitioners. In instances where their opinion is sought, or where REALTORS® believe that comment is necessary, their opinion is offered in an objective, professional manner, uninfluenced by any personal motivation or potential advantage or gain.

The term REALTOR® has come to connote competency, fairness, and high integrity resulting from adherence to a lofty ideal of moral conduct in business relations. No inducement of profit and no instruction from clients ever can justify departure from this ideal.

In the interpretation of this obligation, REALTORS® can take no safer guide than that which has been handed down through the centuries, embodied in the Golden Rule: "Whatsoever ye would that others should do to you, do ye even so to them."

Accepting this standard as their own, REALTORS® pledge to observe its spirit in all of their activities whether conducted personally, through associates or others, or via technological means, and to conduct their business in accordance with the tenets set forth below. (Amended 1/07)

Duties to Clients and Customers

Article 1

When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly. (Amended 1/07)

Standard of Practice 1-1

REALTORS®, when acting as principals in a real estate transaction, remain obligated by the duties imposed by the Code of Ethics. (Amended 1/93)

Standard of Practice 1-2

The duties imposed by the Code of Ethics encompass all real estate-related activities and transactions whether conducted in person, electronically, or through any other means.

The duties the Code of Ethics imposes are applicable whether REALTORS® are acting as agents or in legally recognized non-agency capacities except that any duty imposed exclusively on agents by law or regulation shall not be imposed by this Code of Ethics on REALTORS® acting in non-agency capacities.

As used in this Code of Ethics, "client" means the person(s) or entity(ies) with whom a REALTOR® or a REALTOR®'s firm has an agency or legally recognized non-agency relationship; "customer" means a party to a real estate transaction who receives information, services, or benefits but has no contractual relationship with the REALTOR® or the REALTOR®'s firm; "prospect" means a purchaser, seller, tenant, or landlord who is not subject to a representation relationship with the REALTOR® or REALTOR®'s firm; "agent" means a real estate licensee (including brokers and sales associates) acting in an agency relationship as defined by state law or regulation; and "broker" means a real estate licensee (including brokers and sales associates) acting as an agent or in a legally recognized non-agency capacity. (Adopted 1/95, Amended 1/07)

Standard of Practice 1-3

REALTORS®, in attempting to secure a listing, shall not deliberately mislead the owner as to market value.

Standard of Practice 1-4

REALTORS®, when seeking to become a buyer/tenant representative, shall not mislead buyers or tenants as to savings or other benefits that might be realized through use of the REALTOR®'s services. (Amended 1/93)

Standard of Practice 1-5

REALTORS® may represent the seller/landlord and buyer/tenant in the

- Protects the buying and selling public.
- Promotes a competitive real estate marketplace.
- Enhances the integrity of the industry.
- Is **OUR** promise of performance.
- Is **OUR** promise of professionalism.



THANK YOU.



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