

“Violation or Not a Violation” Game Show- Round 2

1. You call the listing agent with a ridiculously low offer and say, “I know that it is not much to work with, but see if you can at least get the sellers to counter.”
 - Violation
 - Not a violation

2. After closing, both the listing agent and the selling agent publicly claim to have sold the property.
 - Violation
 - Not a violation

3. You contact a neighbor who has her home listed with a competitor about a potential office location for the neighbor’s medical practice.
 - Violation
 - Not a violation

4. You have an offer on one of your listings when you receive a call that another offer is being prepared. You decide to tell the second party about the existence of an offer since competition can increase the ultimate sales price.
 - Violation
 - Not a violation

5. In response to an offer to purchase, your seller says, “I will take the offer as long as the buyer’s agent agrees to take 1% less commission than what we offered”. You call the buyer’s agent to discuss the possible change.
 - Violation
 - Not a violation

6. You get an accepted offer on your listing and you put a sold sign in the front yard.
 - Violation
 - Not a violation

7. You receive a call from a competing agent, who is one of your best friends. Your friend states that your new listing is overpriced. You say that it is a very nice house and that, confidentially, it may be overpriced but just bring an offer and you will see what you can do.
 - Violation
 - Not a violation



Pathways to Professionalism

While the REALTOR® Code of Ethics establishes objective, enforceable ethical standards governing the professional conduct of REALTORS®, it does not address issues of courtesy or etiquette. The following are suggested by the Memphis Area Association of REALTORS® as Best Practices for the Memphis area.

I. Respect for the Public

- Follow the "Golden Rule" – Do unto others as you would have them do unto you.
- Respond promptly to inquiries and requests for information.
- Present a professional appearance at all times; dress appropriately and drive a clean car.
- Communicate clearly; don't use jargon or slang that may not be readily understood.
- Be aware of and respect cultural differences.
- Show courtesy and respect to everyone.
- Spend sufficient time with the client on the front end explaining the buying and selling process.
- Promise only what you can deliver – and keep your promises.
- Identify your REALTOR® and your professional status in contacts with the public.
- Do not tell people what you think – tell them what you know.

II. Respect for Peers For Selling Brokers...

- Identify yourself on the front end by name and firm name.
- Schedule appointments and showings as far in advance as possible.
- Call if you are delayed or must cancel an appointment or showing.
- Read the MLS Remarks for special instructions prior to showing the property.
- If a prospective buyer decides not to view an occupied home, promptly explain the situation to the listing broker or the occupant.
- When showing an occupied home, always ring the doorbell or knock - and announce yourself loudly - before entering. Knock and announce yourself loudly before entering any closed room.
- When entering a property, ensure that unexpected situations, such as pets, are handled appropriately.
- If occupants are home during showings, ask for permission before using the telephone or bathroom.
- Be responsible for everyone you allow to enter listed property.

- Never allow buyers to enter property unaccompanied.
- When showing property, keep all members of the group together.
- Never allow unaccompanied access to property without permission.
- Enter property only with permission even if you have a lockbox key or combination.
- Be considerate of the seller's property. Do not allow anyone to eat, drink, smoke, dispose of trash, use bathing or sleeping facilities, or bring pets.
- Use sidewalks; if weather is bad, take off shoes and boots inside property.
- Obtain permission of seller before video recording property.
- Never criticize property in the presence of the occupant.
- Inform occupants that you are leaving after showings.
- When the occupant is absent, leave the property as you found it (lights, heating, cooling, drapes, etc.) If you think something is amiss (e.g. vandalism) contact the listing broker immediately.
- Carefully replace keys in the lockbox after showings.
- Notify the listing broker if there appears to be inaccurate information on the listing.
- At the time of writing the offer advise the buyer to write the earnest money check to the listing broker.
- Give a courtesy call to the listing broker before delivering an offer.
- Promptly deliver the earnest money check to the listing broker, unless otherwise specified in the contract.
- Stay in touch with the lender and follow up on loan processing.
- Coordinate inspections and repairs.

For Listing Brokers...

- Utilize the MLS REALTOR® Remarks to share important information about a property, including the presence of pets and security systems.
- Utilize the Media function of Tempo to make available to cooperating brokers required documents.
- Be sure your assistant has viewed the property before calling cooperating brokers for feedback.

- Subject to seller's consent, keep all parties informed about multiple offers.

In General...

- Communicate with all parties in a timely fashion.
- Respond to other agents' calls, faxes, and e-mails promptly and courteously.
- Encourage the clients of other brokers to direct questions to their agent or representative.
- Do not prospect at other REALTORS® open houses or similar events.
- Avoid placing calls after hours that are not time sensitive.
- Leave detailed messages, i.e. time and date of appointment desired, feedback request, etc.
- On outgoing voicemail messages, alert the caller of your work schedule (i.e., "If this call is after 6:00 p.m. I will return the call the next business day").
- Be aware of – and meet – all deadlines.
- Be aware that large electronic files with attachments or lengthy faxes may be a burden on recipients.
- If you are new in the business, let the other agent know that.
- If you are experienced, be willing to guide the new agent as appropriate in the transaction.
- Don't be condescending to the other agent and make demands; avoid placing blame.
- Avoid the inappropriate use of endearments or other denigrating language.
- Show courtesy, trust and respect to other real estate professionals.
- To be successful in the business, mutual respect is essential.
- Real estate is a reputation business. What you do today may affect your reputation and business – for years to come.
- Use NAR's Grievance and Professional Standards process: Changing the mindset from "tattle telling" to "maintaining and improving professionalism."

Updated: December 2004

GRI 401 Self-Assessment

1. The Code of Ethics is based on the concept of:
 - a. Let the buyer beware.
 - b. Let the seller beware.
 - c. Let the public be served.
 - d. Let the public fend for themselves.

2. The Code of Ethics was adopted:
 - a. To establish standards of conduct for the industry.
 - b. Only as "recommendations" for proper conduct.
 - c. In 1931.
 - d. Long after real estate licensing laws were in existence.

3. The Preamble to the Code:
 - a. Sets out aspirational ideals that REALTORS® should strive to attain.
 - b. Can be used as the basis for disciplinary action against a REALTOR®.
 - c. Requires REALTORS® to meet the standards set forth in the Preamble.
 - d. Is a summary of all the articles included in the Code.

4. The Code is primarily enforced by:
 - a. The NATIONAL ASSOCIATION OF REALTORS®.
 - b. State associations of REALTORS®.
 - c. Local associations of REALTORS®.
 - d. None of the Above.

5. The two basic types of complaints handled by local associations are:
 - a. Ethics complaints and license law complaints.
 - b. License law complaints and mediation matters.
 - c. Ethics complaints and requests for arbitration.
 - d. License law complaints and requests for arbitration.

6. The three committees or groups that are involved in the Code enforcement process are:
 - a. Grievance Committee, Appeals Committee, and Board of Directors
 - b. Professional Standards Committee, Arbitration Committee, and Mediation Committee
 - c. Professional Standards Committee, Mediation Committee, Board of Directors
 - d. Grievance Committee, Professional Standards Committee, Board of Directors

7. A request for mandatory arbitration is based on:
- A monetary dispute between REALTORS® (principals) in different firms.
 - A legal claim for damages between REALTORS® in different firms.
 - A monetary dispute between salespersons in different firms.
 - A legal claim for damages between a salesperson and his/her broker.
8. A request for arbitration is most commonly based on a dispute about:
- A listing commission.
 - A cooperative (selling) commission.
 - An earnest money dispute.
 - A claim for damages.
9. The concept of procuring cause is used to decide commission disputes in arbitration cases. Which of the following statements is true about the concept of procuring cause?
- No predetermined rules of entitlement are allowed to be used by a hearing panel.
 - A hearing panel should not consider the entire course of conduct in the transaction and should decide the case on one factor.
 - Whether an agent abandoned or estranged a buyer is not important in determining which party will receive an award.
 - Generally, a hearing panel should split an award and should not make the award all to one party or the other.
10. REALTORS have an obligation to protect and promote the interests of their clients but also have an obligation to treat all parties:
- Fairly.
 - Honestly.
 - Fairly and honestly.
 - Politely.
11. If a listing broker tells another broker, "I'll cooperate with you," the other broker:
- May assume that the listing broker will pay him/her a cooperative commission.
 - May not assume that the listing broker will pay him/her a cooperative commission.
 - Has an arbitration claim against the broker if the listing broker fails to pay a cooperative commission.
 - Has a legal claim for the cooperative commission against the listing broker if the listing broker refuses to pay a cooperative commission.

12. A cooperating broker in a transaction may:

- a. Claim to have "sold" the property involved in the transaction.
- b. Post a "sold" sign on the property involved in the transaction after the closing (with the buyer's permission).
- c. Not claim to have "sold" the property but may state that they have "participated" or "assisted" in the transaction.
- d. Both A and B.

13. Disciplinary action in an ethics complaint may NOT include:

- a. A fine not to exceed \$5,000.
- b. A letter of reprimand.
- c. A requirement that the respondent attend a course of education.
- d. A written apology.

14. When prospecting for new clients, the Code of Ethics prohibits using _____ as a source of prospects.

- a. "For Sale By Owner" signs
- b. Other agents
- c. Telemarketing
- d. The MLS

15. _____ disclosure of agency is required before providing any real estate brokerage services to a consumer.

- a. Written
- b. Verbal
- c. Written and verbal
- d. No form of

The following MAY or MAY NOT be a violation of the Code in the scenario. As a group, determine which Article these scenarios would be referring to.

1. A showing agent calls a listing agent to ask if they have an offer on it. The agent replies, I can't answer that question.
2. Susie is working with her nephew, Mike to buy a home. She doesn't disclose that she is related to the Buyer in her offer.
3. Rachel is new in the business and desperately wants a listing. At a listing appointment she assures the seller that due to her marketing efforts, she will be able to obtain more money for the property than the comparables actually show.
4. Bill has an appointment with a potential seller. The seller informs him that he will be interviewing Tom as well. Tom was just found guilty at TREC of a violation of State Advertising Rules. Bill believes that the Seller should know this.
5. Jean and Laura have been working a contract together and all has been going smoothly along the way. They're scheduled to close 2 days from now. The Lender calls to state that the Closing CD didn't get out yesterday as it should have, but will go today. This means they will close 3 days from now, not 2. Sellers and Buyers are informed and all seem to be happy with this. On the day of closing, the Buyers call their agent and say they have had a change of heart and don't feel that this is the home for them. They are not going to close. The Sellers are furious with this!

Case #1-25: Disclosure of Latent Defects

(Adopted November, 2000.)

REALTOR® A had listed Seller S's vintage home. Buyer B made a purchase offer that was contingent on a home inspection. The home inspection disclosed that the gas furnace was in need of replacement because unacceptable levels of carbon monoxide were being emitted.

Based on the home inspector's report, Buyer B chose not to proceed with the purchase.

REALTOR® A told Seller S that the condition of the furnace and the risk that it posed to the home's inhabitants would need to be disclosed to other potential purchasers. Seller S disagreed and instructed REALTOR® A not to say anything about the furnace to other potential purchasers. REALTOR® A replied that was an instruction he could not follow so REALTOR® A and Seller S terminated the listing agreement.

Three months later, REALTOR® A noticed that Seller S's home was back on the market, this time listed with REALTOR® Z. His curiosity piqued, REALTOR® A phoned REALTOR® Z and asked whether there was a new furnace in the home. "Why no," said REALTOR® Z. "Why do you ask?" REALTOR® A told REALTOR® Z about the home inspector's earlier findings and suggested that REALTOR® Z check with the seller to see if repairs had been made.

When REALTOR® Z raised the question with Seller S, Seller S was irate. "That's none of his business," said Seller S who became even angrier when REALTOR® Z advised him that potential purchasers would have to be told about the condition of the furnace since it posed a serious potential health risk.

Seller S filed an ethics complaint against REALTOR® A alleging that the physical condition of his property was confidential; that REALTOR® A had an ongoing duty to respect confidential information gained in the course of their relationship; and that REALTOR® A had breached Seller S's confidence by sharing information about the furnace with REALTOR® Z.

The Hearing Panel disagreed with Seller S's contentions. It noted that while REALTORS® do, in fact, have an obligation to preserve confidential information gained in the course of any relationship with the client, Standard of Practice 1-9 specifically provides that latent material defects are not considered "confidential information" under the Code of Ethics. Consequently, REALTOR® A's disclosure did not violate Article 1 of the Code of Ethics.

Case #2-7: Obligation to Determine Pertinent Facts

(Revised Case #9-13 May, 1988. Transferred to Article 2 November, 1994.)

REALTOR® A, a home builder, showed one of his newly constructed houses to Buyer B. In discussion, the buyer observed that some kind of construction was beginning nearby. He asked REALTOR® A what it was. "I really don't know," said REALTOR® A, "but I believe it's the attractive new shopping center that has been planned for this area." Following the purchase, Buyer B learned that the new construction was to be a bottling plant and that the adjacent area was zoned industrial.

Charging that the proximity of the bottling plant would have caused him to reject purchase of the home, Buyer B filed a complaint with the Board of REALTORS® charging REALTOR® A with unethical conduct for failing to disclose a pertinent fact. The Grievance Committee referred the complaint for a hearing before a Hearing Panel of the Professional Standards Committee.

During the hearing, REALTOR® A's defense was that he had given an honest answer to Buyer B's question. At the time he had no positive knowledge about the new construction. He knew that other developers were planning an extensive shopping center in the general area, and had simply ventured a guess. He pointed out, as indicated in Buyer B's testimony, that he had prefaced his response by saying he didn't know the answer to this question.

The Hearing Panel concluded that Buyer B's question had related to a pertinent fact; that REALTOR® A's competence required that REALTOR® A know the answer or, if he didn't know the answer, he should not have ventured a guess, but should have made a commitment to get the answer. The Hearing Panel also noted that although REALTOR® A had prefaced his response with "I don't know," he had nonetheless proceeded to respond and Buyer B was justified in relying on his response. REALTOR® A was found to have violated Article 2.

Case #3-5: Refusal to Extend Cooperation in Sale of New Homes

(Reaffirmed Case #22-5 May, 1988. Transferred to Article 3 November, 1994. Revised November, 2001. Revised May, 2017.)

REALTOR® A, who operated a brokerage business in many areas of the city, was also a home builder. For the homes he built, he maintained a separate sales force and consistently refused to permit other REALTORS® to show his new homes.

This practice came to the attention of an officer of the Association of REALTORS® who made a complaint which was referred to the Professional Standards Committee by the Grievance Committee.

At the hearing, the Hearing Panel asked REALTOR® A to answer charges that his policy violated Article 3 of the Code of Ethics.

REALTOR® A's defense was that Article 3 requires REALTORS® to cooperate with other brokers "except when cooperation is not in the client's best interest." He contended that in selling his own new homes there was no client; that he was not acting in the capacity of a broker, but as owner-seller; and that, under the circumstances, Article 3 did not apply to his marketing the houses he built.

The Hearing Panel concluded REALTOR® A's defense was valid; that he was a principal; that Article 3 permitted him, as the builder-owner, to decide what marketing procedure would be in his best interest; and that although other REALTORS® might disagree with his decision, he was not in violation of Article 3.

Case #16-10: Refusal to Disclose Nature and Expiration Date of Listing

(Originally Case #9-20. Revised and transferred to Article 21 as Case #21-16 May, 1988. Transferred to Article 16 November, 1994. Revised May, 2018.)

REALTOR® A, on his way to his office, noticed the deteriorated condition of a “For Sale” sign posted on an unimproved site bearing the name of REALTOR® B. He remembered that REALTOR® B’s “For Sale” sign had been on that site for a considerable period of time. REALTOR® A decided to call REALTOR® B to determine the status of the property. In response to several questions, one of which was, “Do you have an exclusive listing on that property?” REALTOR® B replied that he was not obligated to disclose the nature, status, or the type of listing. After considerable conversation, REALTOR® A stated his intention to contact the property owners for this information, citing Standard of Practice 16-4 as the basis for his action. REALTOR® B warned REALTOR® A not to contact his sellers and refused to discuss the matter further. A few days later, REALTOR® B had a telephone conversation with the property owners and learned of their decision to list their property with REALTOR® A when their current listing with REALTOR® B expired the following week. REALTOR® B filed a complaint against REALTOR® A with the Association, stating that REALTOR® A’s actions in contacting his client had been inconsistent with REALTOR® B’s exclusive agreement with the sellers.

The Grievance Committee reviewed the complaint and the response to the complaint filed by REALTOR® B. The case was referred to the Professional Standards Administrator to schedule a hearing by a Hearing Panel of the Association’s Professional Standards Committee.

During the hearing, REALTOR® B repeated his complaint and his conversation with REALTOR® A. He also advised the Hearing Panel of his telephone conversation with the property owners and of their decision, as a result of REALTOR® A’s direct contact, not to relist the property with him, REALTOR® B. “Not only did REALTOR® A fail to respect my exclusive agreement with the property owners by contacting them directly,” said REALTOR® B, “but he violated Article 16 by taking the opportunity to relist the property away from me!”

REALTOR® A defended his actions by stating that he had requested information on the nature and status of the listing from REALTOR® B, as required by Article 16, and that REALTOR® B had refused to divulge the information; and that he had contacted the property owners only after this refusal, citing as his authority the principle established in Standard of Practice 16-4. “The sellers were happy to discuss listing their property with me, once I described the services my firm could offer,” said REALTOR® A. “They said they hadn’t had an interested customer since the first week of their listing with REALTOR® B.”

After giving careful consideration to all of the evidence and testimony, the Hearing Panel concluded that REALTOR® A's actions had not been inconsistent with the exclusive agreement of REALTOR® B. The panel advised that REALTOR® B's refusal to disclose the nature and status of his listing had freed REALTOR® A to contact the property owners.

The Hearing Panel's decision noted that Article 16 requires a REALTOR® to respect the exclusive agency of another REALTOR®. But, in order to respect the listing broker's agency, the REALTOR® must be able to determine if an exclusive listing really exists. If the listing broker refuses to disclose the existence, type, and duration of his listing, Standard of Practice 16-4 recognizes the REALTOR®'s right to contact the seller directly to get that information. Once the REALTOR® secures information on the type and duration of the listing, Standard of Practice 16-4 also permits him to discuss the terms of a future listing or to enter into a listing that becomes effective upon the expiration of the current listing. The panel's decision also indicated that REALTOR® B could have barred REALTOR® A's contact with the sellers by simply providing him with information on the nature and status of the listing.

The panel found REALTOR® A not in violation of Article 16 of the Code of Ethics.