


 312.803.4900  
 312.803.4905  
 @ChicagoREALTORS  
 [www.ChicagoREALTOR.com](http://www.ChicagoREALTOR.com)

# BIENNIAL ETHICS PROGRAM

## REVIEW THE FOLLOWING INFORMATION BEFORE BEGINNING YOUR COURSE

- 1) Read the course materials contained herein.
- 2) No final exam is required; disregard the directions regarding final exams. Please note that this course does not give you continuing education credit.
- 3) When you have completed your reading have the Designated REALTOR® (DR) of your office sign below.
- 4) Fax this completed form to: (312) 803-4905 or email to: [membership@chicagorealtor.com](mailto:membership@chicagorealtor.com) no later than December 1, 2018.

### DESIGNATED REALTOR® AFFIDAVIT:

I/we certify that the C.A.R. member named below has successfully completed **The Code of Ethics – Your Promise of Professionalism** course which fulfills the National Association of REALTORS® Biennial Ethics requirement for the period ending December 31, 2018.

DR Signature \_\_\_\_\_ Date \_\_\_\_\_

Office # \_\_\_\_\_

Member # \_\_\_\_\_

Member Signature \_\_\_\_\_ Date \_\_\_\_\_

#### Office Use Only

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(Date) (Initials)

# The Code of Ethics – Your Promise of Professionalism





# ***Code of Ethics***

## ***Your Promise of Professionalism***

### ***Course Description***

This course provides the real estate agent with a reliable reference for guidance in dealing with complex situations in today's day to day practice of real estate. Students will discuss how the Code of Ethics compares and contrasts with the concept of general business ethics.

### ***Learning Objectives***

Upon completion, participants will be able to:

1. Identify at least two aspirational concepts in the Preamble to the Code of Ethics.
2. Describe the concept of general business ethics and identify how the Code of Ethics compares and contrasts with the concept of general business ethics.
3. Describe the concepts of at least two of the following Articles of the Code of Ethics: Article 1, 2, 3, 9, 11, 12, 16 and 17.
4. Identify possible violations of the Code of Ethics, specifically related to at least one of the two Articles selected in Objective 3 using case studies, quizzes and group discussion of fact scenarios.
5. Describe the professional standards enforcement process of the board or association.



## Course Outline

Welcome	5 Minutes
History and Background of the Code of Ethics	10 Minutes
The Preamble and Business Ethics	15 Minutes
The Structure of the Code	5 Minutes
Enforcement of the Code	15 Minutes
Concepts of Procuring Cause	10 Minutes
Article 1 Summary	5 Minutes
Article 1 Case Study	15 Minutes
Article 2 Summary	10 Minutes
Article 2 Case Study	15 Minutes
Article 3 Summary	5 Minutes
Article 3 Case Study	10 Minutes
Article 11 Summary	5 Minutes
Article 11 Case Study	10 Minutes
Article 16 Summary	10 Minutes
Article 16 Case Study	15 Minutes



## ***The Code of Ethics Your Promise of Professionalism***

***Section 1 - Course Text***

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***Section 2 - NAR Code of Ethics***

***Appendix***

### ***Section 1 - Course Text***

#### ***Business Ethics***

Business ethics can be made up of industry codes, such as the Code of Ethics, or have a more general concept which would include both company policy and individual moral values. Legal standards generally set minimum standards of conduct. Ethical standards usually encompass principles higher than legal standards.

This section moves from the broadest concepts in the Code to the most specific. The first part deals with the “three major categories.” The Code of Ethics is prioritized as to the importance of the sections, Articles and Standards of Practice. NAR structured the Code with “Duties to Clients and Customers” as the first section because these duties are the most important obligations REALTORS® have. Similarly, the Articles in subsequent sections are prioritized “Duties to the Public”, and “Duties to REALTORS®”.

Due to their importance let us restate the “three major categories.”

1. Duties to Clients and Customers
2. Duties to the Public
3. Duties to REALTORS

Articles are broad statements of ethical principles. Principles are fundamental truths. They serve as enduring moral guide posts and provide a guide for human and institutional conduct. They are permanent and carry a great obligation.



For Example, Article 1's concept of protecting and promoting the interest of the client is considered to be the most important obligation REALTORS® have, both in this section and, because it is the first Article in the entire Code. The same prioritization occurs in the Standards of Practice that interpret each Article. Even though this priority exists, it is important to note that no section, Article or Standard of Practice is "less important" or the "least important". Violations of any Article are serious and can subject the member to discipline.

Standards of Practice serve to clarify the ethical obligations imposed by the various Articles and supplement, and do not substitute for, the Case Interpretations in Interpretations of the Code of Ethics.

Case Interpretations are specific fact situations to which the Articles and/or Standards of Practice are applied.

Lastly, one should note that, in contrast to a failure to attain the aspirational goals of the Preamble, violation of any of the Articles can subject REALTORS® to disciplinary action.

In filing a charge of an alleged violation of the Code of Ethics by a REALTOR, the charge must read as an alleged violation of one or more Articles of the Code; Standards of Practice may be cited in support of the charge.



### ***Part 1***

## ***History and Background of the Code of Ethics***

The National Association of REALTORS® was founded as the National Association of Real Estate Exchanges on May 12, 1908 at the YMCA Auditorium in Chicago, Illinois. Three earlier attempts, beginning in 1891, at organizing a national real estate group were unsuccessful. With 120 founding members, 19 Boards, and one State Association, National Association of Real Estate Exchanges' objective was "to unite the estate men of America for the purpose of effectively exerting a combined influence upon matters affecting real estate interests."

In 1916, the National Association of Real Estate Exchanges was changed to the National Association of Real Estate Boards, and in 1974, the name was changed to the National Association of REALTORS®. Today, NAR has over 1,000,000 members, 54 state associations, and 1600 local associations, including Guam, Puerto Rico and the Virgin Islands.

The Code of Ethics was adopted in 1913 (and is older than Illinois license laws) with the Golden Rule as its theme and the National Association of REALTORS® was one of the first business groups to adopt a Code of Ethics. The purpose of the Code of Ethics was to establish a professional standard of conduct for real estate practitioners. Before then, the real estate business had a history of speculation, exploitation, and disorder. This was before the establishment of state regulatory licensing agencies and consumer advocacy. It was a time when real estate practitioners, if they were licensed at all, were licensed as peddlers. It was an era of robber barons whose motto was "let the public be damned." The motto of business was "Caveat Emptor" or "let the buyer beware." Now, of course, the Code of Ethics is based on the concept of "let the public be served." This central concept of the public protection is one of the foundations of the Articles of the Code.



To this day, many judicial decisions cite the REALTOR® Code of Ethics as the recognized standard of conduct in the real estate industry. Courts have applied the standards of conduct embodied in the Code of Ethics even to real estate licensees who are not REALTORS®, and as such, formed the basis for license laws.

Similarly, the use of arbitration in monetary disputes between REALTORS® was a pioneering effort. While “alternative dispute resolution” systems such as arbitration and mediation are used in the civil law system, more frequently today, the requirement that REALTORS® arbitrate monetary disputes between fellow REALTORS® has been in effect since the inception of the Code of Ethics nearly 90 years ago.





**Part 1**

**Review Questions**

T F	1. NAR was founded in 1908 as the National Association of Real Estate Exchanges.
T F	2. The Code of Ethics was adopted in 1913 with the Golden Rule as its theme.
T F	3. The Code of Ethics is based on the concept “let the public be served.”
T F	4. The Code of Ethics is the same as state license laws.
T F	5. Many judicial decisions cite the Code of Ethics as the recognized Standard of conduct in the real estate industry.

Answer Key	
1.	T
2.	T
3.	T
4.	F
5.	T



## **Part 2**

### ***The Preamble of the Code of Ethics, Concepts of Business Ethics and the Structure of the Code***

The Preamble to the Code of Ethics is the aspirational foundation of the Code. While the concepts in the Preamble do not serve as the basis for disciplinary action against a REALTOR®, they are timeless principles upon which the professionalism of the industry is based.

***“Under all is the land...”*** This powerfully descriptive beginning to the Preamble to the Code sets the state for all that follows. The phrase clearly conveys the immense and all encompassing nature of real estate and the real estate calling. Land is the foundation of many aspects of society, whether it be the basics of food and shelter, or the more sophisticated aspects of economy and prosperity. Truly, REALTORS® deal in one of society’s most important commodities.

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. These concepts speak to a fundamental premise upon which our nation was founded. Given that much of our law and governance derived from England, under which the king held much of the available land, it is easy to see why the founders of our nation would have the desire not to have a few individuals own vast quantities of land. The accumulation of land can lead to inordinate power in the hands of a few. REALTORS® support the fundamental concept that many persons owning small parcels of land is vital to the efficient functioning of our democracy. 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 improve 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 the 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, willful discrimination, or fraud resulting in substantial economic harm, bring such matters to the attention of the appropriate Board or Association of REALTORS®.

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 even can justify departure from this ideal.

In the interpretation of this obligation, REALTORS® can take no safer guide than 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.” Even though the Golden Rule was an inspiration to the founding of the code real estate brokers must take into account the diversity of clients and customers in today’s society. Simply because something is appealing to an agent does not mean it is appealing to the client.

For example, the geographic direction of the placement of the front door is very important in some cultures. A broker may find a home that they think is the greatest value in the market. If they were looking for a home for themselves this home would be their first choice. However, it would not suit their clients because of the direction placement of the front door. Agents must also realize what the client wants is more important than what the agent would want for himself.

Accepting this standard as their own, REALTORS® pledge to observe its spirit in all of their activities and to conduct business in accordance with the tenets set forth.



**Part 2**

**Review Questions**

T F	1. The Preamble to the Code is the aspirational foundation of the Code.
T F	2. Land is the foundation of many aspects of society.
T F	3. REALTORS® support the fundamental concept that many persons owning small parcels of land is vital to the efficient functioning of our democracy.
T F	4. REALTORS® urge exclusive representation of clients.
T F	5. The term REALTOR® has come to connote competency, fairness, and high integrity.
T F	6. Legal standards generally set minimum standards of conduct while ethical standards usually encompass principles higher than legal standards.
T F	7. Articles are broad statements of ethical principles.
T F	8. Principles provide a guide for human and institutional conduct.
T F	9. Violation of any of the Articles can subject REALTORS® to disciplinary action.
T F	10. Promoting the interest of the client is one of the most important obligations a REALTOR® has.

**Section 2 – Answer Key**

1.	T	6.	T
2.	T	7.	T
3.	T	8.	T
4.	T	9.	T
5.	T	10.	T



### ***Part 3***

## ***Enforcement of the Code of Ethics***

While the primary focus of this course is not on enforcement procedures, one should know that the Code of Ethics has an enforcement mechanism and that local boards and associations have a duty to enforce the Code. Members should also know the basic concepts of how the code is enforced.

Local boards and associations resolve two types of cases, ethics complaints and arbitration requests. Anyone can file a complaint, whether it be another member, a buyer or seller, or someone from the general public. Ethics complaints might be described as “conduct” cases dealing with possible violations of the Code of Ethics. Arbitration cases might be described as “money” cases in which disputed commissions between REALTORS® are handled. Most cases dealing with commission disputes between REALTORS® with different firms are required to be arbitrated rather than litigated if any party requests arbitration.

The Grievance Committee is a screening committee comprised of members of the Association appointed to the committee. A key question for the Grievance Committee is: “If the allegations in the complaint were taken as true on their face, is it possible that a violation of the Code of Ethics occurred?”

Let us look at an example of whether it is a violation of the code. Broker Susan shows a property to client Charles. Charles wants the property and a contract is written and presented to the seller by Susan. The seller accepts the offer and everything is properly signed. The next day Charles mentions to Broker Harvey that he has purchased a property through Broker Susan. Broker Harvey sold Charles the last six properties he purchased and told Charles he should have purchased the property using Harvey as his agent. Harvey adds that, in fact, he is entitled to the commission because he sold Charles the other properties. Charles agrees.



Charles and Harvey contact Susan and inform her that Charles is entitled to the commission and not her. She disagrees and Harvey takes the matter to the Grievance Committee. The Grievance Committee would not hear the matter because representing a client who was formerly represented by another broker is not a violation of the Code. (This a true story.)

The Professional Standards Hearing Panel's function is to conduct a full "due process" hearing with sworn testimony, witnesses and evidence. The Hearing Panel is comprised of members of the Professional Standards Committee. After a hearing has been conducted, the Hearing Panel decides whether there was a violation of the Code of Ethics, proven by clear, strong and convincing proof. If the Hearing Panel finds a violation of the Code of Ethics, the Panel then determines the discipline to be imposed on the violator.

Authorized disciplinary actions are the only sanctions that may be imposed for violations of the Code. Authorized discipline could be: letter or warning; letter of reprimand; education; monetary fines up to \$15,000; probation; suspension; expulsion from membership; suspension or termination of MLS privileges; administrative processing fee. The administrative processing fee is not discipline and is used only if the association has a policy which imposes the administrative processing fee in all cases where a violation of the Code is found.

The arbitration process starts with a request for arbitration being filed. Arbitration is conducted under Article 17 of the Code of Ethics and the state arbitration statute if any. To conduct an arbitration hearing, Boards of REALTORS®, acting through their Grievance Committees and Professional Standards Committees, must have a clear understanding of what constitutes an arbitrable issue. An arbitrable issue includes a contractual question arising out of a transaction between parties to a contract in addition to certain specified non-contractual issues set forth in Standard of Practice 17-4. These could be disputes between principals associated with different firms or arising out of their relationship as REALTORS®.



The Grievance Committee performs a screening function similar to review of ethics complaints. The key question for the Grievance Committee is: “If the facts alleged in the request for arbitration were taken as true on their face, is the matter at issue related to a real estate transaction and is it properly arbitrable – i.e., is there some basis on which an award could be based?” In reviewing requests for arbitration, it is important that the Grievance Committee not take action that could be construed as rendering decisions on the merits. For example, a Grievance Committee should not dismiss an otherwise arbitrable claim simply because Grievance Committee members believe the respondent would prevail in a hearing. On the other hand, an arbitration request that cites no factual basis on which a Hearing Panel could conceivably base an award should not be referred for hearing. A party requesting arbitration must clearly articulate, in the request for arbitration, facts that demonstrate a contractual relationship between the complainant and the respondent, or a relationship described in Standard 17-4, and an issue that could be the basis on which an arbitration award could be founded.

The Grievance Committee has many tools about arbitration to use and guide them. However, the actual case in question must be looked at as an individual case and not prejudged by knowledge of other cases. For example, Broker Amy is on the Grievance Committee with the Chicago Association of Realtors. Her brother is with the St. Louis Association of Realtors. He told her about a Grievance case they had which seemed very similar to the one presented to Amy. In the St. Louis case the plaintiff won the case. Amy should not take this information into consideration in deciding if the Grievance Committee with the Chicago Association should decide if there is an issue for arbitration.

Mediation is another remedy available. Mediation is a voluntary process in which disputing parties meet with a mediator appointed by the Association to create a mutually acceptable resolution of the





dispute, rather than having a decision imposed by an arbitration hearing panel. Boards and Associations are required to provide mediation services.

Mediation can occur before or after the Grievance Committee reviews requests for arbitration, depending on local Association policy. If a dispute is resolved in mediation, the parties sign an agreement spelling out the terms of the settlement, and no arbitration hearing is held.

The Professional Standards Hearing Panel's function is to conduct a full "due process" hearing with sworn testimony, counsel, witnesses and documentary evidence. The Hearing Panel consists of members of the Professional Standards Committee. After the hearing, a Hearing Panel decides which REALTOR® is entitled to the award (typically a disputed commission in a transaction), proven by a preponderance of the evidence.

In the event an arbitration award is not voluntarily paid, the arbitration award can be enforced through judicial processes. Alternatively, associations can adopt procedures requiring that awards be deposited with and held by the association pending procedural review or legal challenges.



## **Part 3** **Review Questions**

T F	1. Local boards and associations resolve ethics complaints and arbitration requests.
T F	2. Only REALTORS® can file complaints.
T F	3. Ethics complaints are described as money cases and arbitration cases are described as conduct cases.
T F	4. Commission disputes between REALTORS® with different firms are quired to be arbitrated rather than litigated if arbitration is requested.
T F	5. The Grievance Committee is a screening committed comprised of members of the Association appointed to the committee.
T F	6. The Hearing Panel is comprised of members of the Grievance Committee.
T F	7. Authorized disciplinary actions are the only sanctions that may be imposed for violations of the Code.
T F	8. The Administrative processing fee is part of the discipline.
T F	9. The arbitration process starts with a request for arbitration being filed.
T F	10. Mediation is a voluntary process in which disputing parties meet with a mediator appointed by the Association to create an acceptable resolution of the dispute.

### Section 2 - Answer Key

1. T	6. F
2. F	7. T
3. F	8. F
4. T	9. T
5. T	10. T



## ***Part 4***

### ***Concepts of Procuring Cause in Arbitration***

NAR's Arbitration Guidelines are found in the Code of Ethics and Arbitration Manual. The following factors are recommended for consideration by Hearing Panels convened to arbitrate disputes between brokers or between brokers and their clients or their customers. This list is not all-inclusive nor can it be. Not every factor will be applicable in every instance. The purpose is to guide panels as to facts, issues, and relevant questions that may aid them in reaching fair, equitable, and reasoned decisions.

#### ***Factor #1. No predetermined rule of entitlement***

Every arbitration hearing is considered in light of all of the relevant facts and circumstances as presented by the parties and their witnesses. "Rules of thumb", prior decisions by other panels in other matter, and other predeterminants are to be disregarded.

Procuring cause shall be the primary determining factor in entitlement to compensation. Agency relationships, in and of themselves, do not determine entitlement to compensation. The agency relationship with the client and entitlement to compensation are separate issues. A relationship with the client, or lack of one, should only be considered in accordance with the guidelines established to assist panel members in determining procuring cause.

#### ***Factor #2. Arbitrability and appropriate parties***

While primarily the responsibility of the Grievance Committee, Arbitration Hearing Panels may consider questions of whether an arbitrable issue actually exists and whether the parties names are appropriate to arbitration.



### ***Factor #3. Relevance and admissibility***

Frequently, Hearing Panels are asked to rule on questions of admissibility and relevancy. While state law, if applicable, controls, the general rule is that anything the Hearing Panel believes may assist it in reaching a fair, equitable, and knowledgeable decision is admissible. This gives the Hearing Panels wider latitude in what testimony can be heard over a courtroom.

Arbitration Hearing Panels are called on to resolve contractual questions, not to determine whether the law or the Code of Ethics has been violated. An otherwise substantiated award cannot be withheld solely on the basis that the Hearing Panel looks with disfavor on the potential recipient's manner of doing business or even that the panel believes that unethical conduct may have occurred. To prevent any appearance of bias, Arbitration Hearing Panels and procedural review panels shall make no referrals of ethical concerns to the Grievance Committee. This is based on the premise that the fundamental right and primary responsibility to bring potentially unethical conduct to the attention of the Grievance Committee rests with the parties and others with firsthand knowledge. At the same time, evidence or testimony is not inadmissible simply because it relates to potentially unethical conduct. While an award cannot be used to punish a perceived wrongdoer, it is equally true that Hearing Panels are entitled to consider all relevant evidence and testimony so that they will have a clear understanding of what transpired before determining entitlement to any award.

#### **FOR EXAMPLE:**

This is one of the most confusing areas for students. It seems to many students that the Hearing Panel should refer unethical behavior to the Grievance Committee. This is not to be done by the Hearing Committee. Let us look at why they do not refer such behavior to



the Grievance Committee. Broker John has a contractual question brought to the Hearing Panel by Broker Bridget. Bridget claims that it is she that is entitled to the commission and not John. In reality Broker John is entitled to the commission. However, John knows that he is probably the most unethical and crooked real estate agent in the state. But he is entitled to the commission. If the Hearing Panel could refer John's actions to the Grievance Committee he might be afraid to present the evidence that would show it is he and not Bridget who is entitled to the commission.

Remember that other parties to the transaction may bring the unethical behavior to the Grievance Committee.

### ***Factor #4. Communication and contact - abandonment and estrangement***

Many arbitrable disputes will turn on the relationship between a broker and a prospective purchaser. Panels will consider whether, under the circumstances and in accord with local custom and practice, the broker made reasonable efforts to develop and maintain an ongoing relationship with the purchaser. The Panel will want to determine, in cases where two cooperating brokers have competing claims against a listing broker, whether the first cooperating broker actively maintained ongoing contact with the purchaser or, alternatively, whether the broker's inactivity, or perceived inactivity, may have caused the purchaser to reasonably conclude that the broker had lost interest or disengaged from the transaction. In other instances, a purchaser, despite reasonable efforts by the broker to maintain ongoing contact, may seek assistance from another broker. The panel will want to consider why the purchaser was estranged from the first broker. In still other instances, there may be no question that there was an ongoing relationship between the broker and purchaser; the issue then becomes whether the broker engaged in conduct which caused the purchaser to terminate the relationship. This can be



caused, among other things, by words or actions. Panels will want to consider whether such conduct caused a break in the series of events leading to the transaction and whether the successful transaction was actually brought about through the initiation of a separate, subsequent series of events by the second cooperating broker.

### ***Factor #5 Conformity with state law***

The procedures by which arbitration requests are received, hearings are conducted, and awards are made must be in strict conformity with the law. In such matters, the advice of Board legal counsel should be followed.

### ***Factor #6. Consideration of the entire course of events***

The standard of proof in Board-conducted arbitration is a preponderance of the evidence, and the initial burden of proof rests with the party requesting arbitration. This does not, however, preclude panel members from asking questions of the parties or witnesses to confirm their understanding of testimony presented or to ensure that panel members have a clear understanding of the events that led to the transaction and to the request for arbitration. Since each transaction is unique, it is impossible to develop a comprehensive list of all issues or questions that panel members may want to consider in a particular hearing. Panel members are advised to consider the following, which are representative of the issues and questions frequently involved in arbitration hearings:

#### ***The nature and status of the transaction***

1. What was the nature of the transaction? Was there a residential or commercial sale/lease?
2. Is or was the matter the subject of litigation involving the same parties and issues as the arbitration?



***The nature, status, and terms of the listing agreement***

1. What was the nature of the listing or other agreement: exclusive right to sell, exclusive agency, open or some other form of agreement?
2. Was the listing agreement in writing? If not, is the listing agreement enforceable?
3. Was the listing agreement in effect at the time the sales contract was executed?
4. Was the property listed subject to a management agreement
5. Were the broker's actions in accordance with the terms and conditions of the listing agreement?
  - A. Were all conditions of the listing agreement met?
  - B. Did the final terms of the sale meet those specified in the listing agreement?
  - C. Did the transaction close?
  - D. Did the listing broker receive a commission?

***The nature, status, and terms of the offer to compensate***

1. Was an offer of cooperation and compensation made in writing? If not, how was it communicated?
2. Is the claimant a party to whom the listing broker's offer of compensation was extended?
3. Were the broker's actions in accordance with the terms and conditions of the offer of cooperation and compensation?
  - A. Were all conditions of the agreement met?



### ***Roles and relationships of the parties***

1. Who was the listing broker?
2. Who was the cooperating broker or brokers?
3. Were any of the parties acting as subagents? As buyer brokers? In some other capacity?
4. Did any of the cooperating brokers have an agreement, written or otherwise, to act as agent or in some other capacity on behalf of any of the parties?
5. Were any of the brokers (including the listing broker) acting as a principal in the transaction?
6. What were the broker's relationships with respect to the seller, the purchaser, the listing broker, and any other cooperating brokers involved in the transaction?
  - A. Was the party to whom the property was sold represented by a party with whom the broker had previously dealt?
  - B. Is the primary shareholder of the buyer-corporation a party with whom the broker had previously dealt?
  - C. Was a prior prospect a vital link to the buyer?
7. Are all appropriate parties to the matter joined?

### ***Initial contact with the purchaser***

1. Who first introduced the purchaser or tenant to the property?
2. When was the first introduction made?
  - A. Was the introduction made when the buyer had a specific need for that type of property?
  - B. Was the introduction instrumental in creating the desire to purchase?
  - C. Did the buyer know about the property before the broker contacted him?





- D. Were there previous dealings between the buyer and the seller?
- E. Did the buyer find the property on his own?
- 3. How was the first introduction made?
  - A. Was the property introduced as an open house?
  - B. What subsequent efforts were made by the broker after the open house?
  - C. Was the introduction made to a different representative of the buyer?
  - D. Was the introduction merely a mention that the property was listed?
  - E. What property was first introduced?

### ***Conduct of the brokers***

- 1. Were all required disclosures complied with?
- 2. Was there a faithful exercise of the duties a broker owes to his client/principal?
- 3. If more than one cooperating broker was involved, was either or both aware of the other's role in the transaction?
- 4. Did the broker who made the initial introduction to the property engage in conduct or fail to take some action which caused the purchaser or tenant to utilize the services of another broker?
- 5. Did the cooperating broker or second cooperating broker initiate a separate series of events, unrelated to and not dependent on any other broker's efforts, which led to the successful transaction – that is, did the broker perform services which assisted the buyer in making his decision to purchase?
  - A. Did the broker make preparation to show the property to the buyer?
  - B. Did the broker make continued efforts after showing the property?



- C. Did the broker remove an impediment to the sale?
  - D. Did the broker make a proposal upon which the final transaction was based?
  - E. Did the broker motivate the buyer to purchase?
6. How do the efforts of one broker compare to the efforts of another?
- A. What was the relative amount of effort by one broker compared to another?
  - B. What was the relative success or failure of negotiations conducted by one broker compared to the other?
7. If more than one cooperating broker was involved, how and when did the second cooperating broker enter the transaction?

### ***Continuity and breaks in continuity (abandonment and estrangement)***

1. What was the length of time between the broker's efforts and the final sales agreement?
2. Did the original introduction of the purchaser or tenant to the property start an uninterrupted series of events leading to the sale or lease, or was the series of events hindered or interrupted in any way?
  - A. Did the buyer terminate the relationship with the broker? Why?
  - B. Did negotiations break down?
3. If there was an interruption or break in the original series of events, how was it caused, and by whom?
  - A. Did the seller change the listing agreement from an open listing to an exclusive listing agreement with another broker?
  - B. Did the purchaser's motive for purchasing change?



- C. Was there interference in the series of events from any outside or intervening cause or party?
- 4. Did the broker who made the initial introduction to the property maintain contact with the purchaser or tenant, or could the broker's inaction have reasonably been viewed by the buyer or tenant as a withdrawal from the transaction?
- 5. Was the entry of any cooperating broker into the transaction an intrusion into an existing relationship between the purchaser and another broker, or was it the result of abandonment or estrangement of the purchaser, or at the request of the purchaser?

### ***Conduct of the buyer***

- 1. Did the buyer make the decision to buy independent of the broker's efforts/information?
- 2. Did the buyer negotiate without any aid from the broker?
- 3. Did the buyer seek to freeze out the broker?
  - A. Did the buyer seek another broker in order to get a lower price?
  - B. Did the buyer express the desire not to deal with the broker and refuse to negotiate through him?
  - C. Did the contract provide that no brokers or certain brokers had been involved?

### ***Conduct of the seller***

- 1. Did the seller act in bad faith to deprive the broker of his commission?
  - A. Was there bad faith evident from the fact that the difference between the original bid submitted and the final sales price equaled the broker's commission?



- B. Was there bad faith evident from the fact that a sale to a third party was a straw transaction which was designed to avoid paying commission?
  - C. Did the seller freeze out the broker to avoid a commission dispute or to avoid paying a commission at all?
2. Was there bad faith evident from the fact that the seller told the broker he would not sell on certain terms, but did so via another broker or via the buyer directly?

### ***Leasing transactions***

1. Did the cooperating broker have a tenant representation agreement?
2. Was the cooperating broker working with the “authorized” staff member of the tenant company?
3. Did the cooperating broker prepare a tenant needs analysis?
4. Did the cooperating broker prepare a market analysis of available properties?
5. Did the cooperating broker prepare a tour book showing alternative properties and conduct a tour?
6. Did the cooperating broker show the tenant the property leased?
7. Did the cooperating broker issue a request for proposal on behalf of the tenant for the property leased?
8. Did the cooperating broker take an active part in the lease negotiations?
9. Did the cooperating broker obtain the tenant’s signature on the lease document?
10. Did the tenant work with more than one broker and if so, why?



### **Other information**

Is there any other information that would assist the hearing Panel in having a full, clear understanding of the transaction giving rise to the arbitration request or in reaching a fair and equitable resolution of the matter?

These questions are typical, but not all-inclusive, of the questions that may assist Hearing Panels in understanding the issues before them. The objective of a panel is to carefully and impartially weigh and analyze the whole course of conduct of the parties and render a reasoned peer judgment with respect to the issues and questions presented and to the request for award.

Procuring cause disputes are often decided in court. The reasoning relied on by the courts in resolving such claims is articulated in Black's Law Dictionary, Fifth Edition, definition of 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. The inducing cause; the direct or proximate cause. Substantially synonymous with “Sufficient cause.”***

***A broker will be regarded as the “procuring cause” of a sale, so as to be entitled to commission, if his efforts are the foundation on which the negotiations resulting in a sale are begun. A cause originating a series of events which, without break in their continuity, result in accomplishment of prime objective of the employment of the broker who is producing a purchaser ready, willing, and able to buy real estate on the owner’s terms. Mohamed v. Robbins, 23Ariz. APP. 195,531p.2d928.930.***



## **Part 4**

### **Review Questions**

T F	1. Every arbitration hearing is considered in light of all the relevant facts as presented by the parties and their witnesses.
T F	2. Procuring cause shall be the primary determining factor in entitlement to compensation.
T F	3. Only the Grievance Committee can consider questions of whether an Arbitrable issue actually exists.
T F	4. The Hearing Panel may allow anything that will help it to reach a fair and knowledgeable decision.
T F	5. Communication and contact as well as abandonment and estrangement are issues to be considered by the Hearing Panel.
T F	6. The hearing procedures must be in accordance with the law.
T F	7. The standard of proof in Board conducted arbitration is a preponderance of the evidence.
T F	8. The objective of the Hearing Panel is to evaluate the course of conduct of the parties and render a decision.
T F	9. Procuring Cause is the basis for determining entitlement to commission.
T F	10. Having an agency relationship is the same as procuring cause.

#### Section 2 - Answer Key

1.	T	6.	T
2.	T	7.	T
3.	F	8.	T
4.	T	9.	T
5.	T	10.	F



## ***Part 5***

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

## ***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.

### ***Standard of Practice 1-2***

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 REALTORS® 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 REALTORS® firm; “prospect” means a purchaser, seller, tenant or landlord who is not subject to a representation relationship with the REALTOR® or REALTORS® 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.

### ***Case Study***

Grant inherited his Uncle Dan’s cabin in the north country. This was quite a surprise, since Grant had only met Uncle Dan twice in his whole life. Dan rarely left his private retreat and never invited anyone to visit him. Grant held on to the cabin for a year, during which he never had the opportunity to visit it. It was quite a year. He opened his dental practice, and he and his wife had their first child. They decided it would be best to sell the cabin. So Grant called and got the name of REALTOR® Bob. He asked Bob to look at the cabin and suggest a listing price. Bob called back and suggested \$90,000.

It seemed low since the property included several hundred feet of lake frontage, but Grant agreed to it. Within three weeks Bob called back with an offer. He would be the buyer at the listed price – less the commission. Grant became increasingly uneasy about the price. He told Bob he intended to have the property appraised before accepting the offer. Hearing this, Bob got upset and abruptly said, “Listen, you can take my offer or not- that’s up to you. But it’s a legitimate offer based on the price you agreed to. So far as I’m concerned, I’ve done my job and you owe me a commission.”

### ***Do you think Bob is in violation of the Code of Ethics?***

Yes.

### ***What was Bob’s obligation to Grant?***

Bob’s obligation was to protect and promote the interest of his client, Grant. When he became a principal in the transaction, he was pursuing his own interest, possibly at the expense of his client. He could not continue to act as Grant’s agent, except with full disclosure





to Grant and with Grant's knowledgeable consent. Grant did not give consent. Bob's comment that Grant had no choice but to continue to view Bob as his agent and to compensate him, even though Bob had become a principal, was not accurate.

### **Article 2**

REALTORS® shall avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to the property or the transaction. REALTORS® shall not, however, be obligated to discover latent defects in the property, to advise on matters outside the scope of their real estate license, or to disclose facts which are confidential under the scope of agency or non-agency relationships as defined by state law.

Article 2 requires more than simply the disclosure of property defects, however, REALTORS® are not required to be "experts" in every possible aspect of real estate transactions. For example, Article 2 makes it clear that REALTORS® may not be home inspectors, professional engineers, architects, accountants, attorneys or the like. These areas would generally be considered to be outside the scope of a typical real estate licensee's expertise and not required by the licensing statute. However, one should note that REALTORS® have an obligation to be aware of conditions and matters which a reasonably knowledgeable real estate licensee in the state or locality would know. In other words, a REALTOR® cannot ignore a condition of which he or she is aware simply because the REALTOR® believes that a home inspector will also note the condition. REALTORS® should make the appropriate disclosures to the appropriate parties of the information which the REALTOR® is aware of at the time.



### ***Case Study***

As she always did when listing a home, Jeanie followed her checklist as she completed the property data sheet on Leslie's home. Noticing the hardwood flooring in the family room, she asked Leslie if there were hardwood floors under the wall-to-wall carpeting in the rest of the house. Leslie told her there were. Jeanie noted that and later specified hardwood floors on the property data form.

Imagine her surprise when she later received an irate phone call from Ben, the new owner. There was outrage in Ben's voice: "You said there were hardwood floors in this house. Well, there's no hardwood flooring under the carpeting in the living room and dining room. When we took up the carpeting, we found that the bedrooms have hardwood flooring but under the living and dining room carpet there is nothing but plywood sub flooring. We paid for a home with hardwood floors. This is not right.

### ***Do you think Jeanie is in violation of the Code?***

No.

### ***What was Jeanie's obligation to the purchaser?***

Jeanie accurately conveyed to the buyer information given to her by the seller. There was no reason to believe that hardwood floors were not present as the seller stated. This case makes clear that the REALTOR® has a right to rely on the representations of the seller unless there is reason to believe that the seller's information is not accurate.

State law may vary the results of this case in a civil action. It is possible that some state law requires that the REALTOR® verify and or substantiate the information given by the seller and may require that the buyer's agent verify and or substantiate that information.



### **Article 3**

REALTORS® shall cooperate with other brokers except when cooperation is not in the client's best interest. The obligation to cooperate does not include the obligation to share commissions, fees, or to otherwise compensate another broker.

Article 3 is a key Article of the Code of Ethics. This Article mandates cooperation unless it is not in the best interests of the client. Cooperation among competitors in other industries is rare. This cooperation aspect of the real estate industry is of great benefit to the consumers as it forms the basis for the concept of the Multiple Listing Service. The MLS, of course, creates tremendous efficiencies for the buying and selling public in the sale of real property.

The second concept of Article 3 is also very important. The duty of "cooperation" does not include an obligation to share commissions or fees or to otherwise compensate another broker. The obligation to compensate other brokers in a cooperative transaction depends on a contract between the brokers, not on Article 3.

### **Case Study**

Lucy was a listing broker who published an offer of cooperation and compensation in MLS for one of her listings (list price of \$300,000). The offer of compensation to MLS participants was for X%. Sam, who saw the MLS listing, showed the property and wrote an offer on the property for Barney Buyer. When Sam delivered the offer to Lucy, Lucy said, "Oh, by the way, I had to reduce my commission the other day to keep the seller happy so I can only pay Y% co-op fee now." (Y% was 1% less than X%) Sam is upset.



### ***What Articles and/or Standards of Practice apply to this case?***

Obviously, this case is based on Article 3. However, it is also based on Standard of Practice 3-2 which requires the timely communication of any change in an offer of compensation before an offer to purchase is produced by the other REALTOR®.

(Standard of Practice 3-2 – REALTORS® shall, with respect to offers of compensation to another REALTOR®, timely communicate any change of compensation for cooperative services to the other REALTOR® prior to the time such REALTOR® produces an offer to purchase/lease the property.)

### ***Is Lucy in violation of the Code of Ethics?***

Yes. Lucy is in violation of Article 3 as interpreted by Standard of Practice 3-2.

### ***What was Lucy's obligation to Sam?***

Lucy should have communicated the change to the offer of compensation before Sam produced the offer to purchase. If this were an MLS listing, Lucy could have changed the offer of compensation in MLS before Sam produced the offer to purchase.

### ***If Sam files an arbitration claim against Lucy for the 1% difference, do you think Sam is entitled to be paid the additional 1%?***

The arbitration panel will likely rule in Sam's favor if Sam can prove that the offer of compensation in MLS was X% on the day the offer to purchase was produced. To prove the offer of compensation was X%, Sam should print a copy of the MLS data sheet on the day the offer to purchase was produced.



### ***Duties to the public***

#### ***Article 11***

The essence of Article 11 is “competence”. The REALTOR® is called to be competent in the specific real estate discipline(s) in which the REALTOR® engages.

The services which REALTORS® provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

REALTORS® shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth.

Article 11 and Article 1 can be closely linked. For example, if a REALTOR® fails in his/her duty to be competent in his/her field, the REALTOR® likely will not be promoting and protecting the interests of the client.

### ***Case Study***

It was a listing Leo now wished he had never taken. But Keith was adamant. He wanted Leo to list the property and no one else. Leo appreciated Keith’s confidence in him, but had repeatedly pointed out that his expertise was with commercial property. This was a home and in an area of the city he didn’t know much about. He strongly encouraged Keith to have the house appraised. But Keith



insisted that he knew the area and \$266,000 was its fair market value. That seemed low to Leo, but he listed the house at Keith's price and it quickly sold to a young couple, Linda and Brian.

When he got a call from Keith five months later, Leo could immediately tell something was wrong. Keith told him about meeting the buyers, Linda and Brian, at a party. Linda was being reassigned to another city and they had received an offer on the house - for \$280,000, which they declined feeling they could do even better. Keith said he was upset and disappointed that Leo had not given him better advice concerning the price.

### ***What Articles and or/Standards of Practice apply to this case?***

This is, of course, an Article 11 case. The second paragraph is the key to the case. Standard of Practice 1-3 is pertinent. Standard of Practice 1-3 states "REALTORS®, in attempting to secure a listing, shall not deliberately mislead the owner as to market value."

### ***Is Leo in violation of the code?***

No.

### ***What was Leo's obligation to Keith?***

Leo's obligation under Article 1 is to protect and promote the interests of the client. He advised the client of his lack of knowledge about the area, the market value of the property, and that the seller should have the property appraised. Because of these disclosures and recommendations, Leo is not in violation of Article 1 nor Standard of Practice 1-3. In addition, Leo did exactly what was required under the second paragraph of Article 11 in advising the seller that residential real estate was not his area of expertise.



## ***Duties to REALTORS®***

### ***Article 16***

REALTORS® shall not engage in any practice or take any action inconsistent with exclusive representation or other exclusive brokerage relationship recognized by law that other REALTORS® have with clients.

Article 16 is a relatively short Article, but is interpreted by many Standards of Practice. Article 16 applies to both agency and non-agency relationships. In the Article, the words “other exclusive brokerage relationship recognized by law” are directed specifically to REALTORS® in those states having adopted non-agency relationships (transaction broker, transaction licensee, facilitator, statutory non-agent, etc.).

This list is a good summary of types of issues which the Standards of Practice to Article 16 cover:

- ***Innovative or aggressive business practices - Standard of Practice 16-1***

Article 16 is not intended to prohibit aggressive or innovative business practices which are otherwise ethical and does not prohibit disagreements with other REALTORS® involving commission, fees, compensation or other forms of payment or expenses.

- ***Advertising solicitations of agency or other relationships - Standard of Practice 16-2***

Article 16 does not preclude REALTORS® from making general announcements to prospective clients describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive



relationships with another REALTOR®. A general telephone canvass, general mailing or distribution addressed to all prospective clients in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed “general” for purposes of this standard.

Article 16 is intended to recognize as unethical two basic types of solicitations:

First, telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, or other information service as having exclusively listed their property with another REALTOR®; and second, mail or other forms of written solicitations of prospective clients whose properties are exclusively listed with another REALTOR® when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, “for sale” or “for rent” signs, or other sources of information required by Article 3 and Multiple Listing Service rules to be made available to other REALTORS® under offers of sub agency or cooperation.

- ***Solicitation of listings and agency relationships of clients of other brokers - Standards of Practice 16-4, 16-5, 16-6, 16-7, 16-8***

### ***Standard of Practice 16-4***

REALTORS® shall not solicit a listing which is currently listed exclusively with another broker. However, if the listing broker, when asked by the REALTOR®, refuses to disclose the expiration date and nature of such listing; i.e., an exclusive right to sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client, the REALTOR® may contact the owner to secure such





information and may discuss the terms upon which the REALTOR® might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing.

### ***Standard of Practice 16-5***

REALTORS® shall not solicit buyer/tenant agreements from buyers/tenants who are subject to exclusive buyer/tenant agreements. However, if asked by a REALTOR®, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the REALTOR® may contact the buyer/tenant to secure such information and may discuss the terms upon which the REALTOR® might enter into a future buyer/tenant agreement or, alternatively, may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement.

### ***Standard of Practice 16-6***

When REALTORS® are contacted by the client of another REALTOR® regarding the creation of an exclusive relationship to provide the same type of service, and REALTORS® have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement.

### ***Standard of Practice 16-7***

The fact that a prospect has retained a REALTOR® as an exclusive representative or exclusive broker in one or more past transactions does not preclude other REALTORS® from seeking such former prospect's future business.



### ***Standard of Practice 16-8***

The fact that an exclusive agreement has been entered into with a REALTOR® shall not preclude or inhibit any other REALTOR® from entering into a similar agreement after the expiration of the prior agreement.

- ***Dealing with other broker's clients - Standard of Practice 16-13***

### ***Standard of Practice 16-13***

All dealings concerning property exclusively listed, or with buyers/tenants who are subject to an exclusive agreement shall be carried on with the client's representative or broker, and not with the client, except with the consent of the client's agent or broker or except where such dealings are initiated by the client.

- ***Obligations when entering into exclusive relationships - Standards of Practice 16-9, 16-14***

### ***Standard of Practice 16-9***

REALTORS®, prior to entering into a representation agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current, valid exclusive agreement to provide the same type of real estate service.

### ***Standard of Practice 16-14***

REALTORS® are free to enter into contractual relationships or to negotiate with sellers/landlords, buyers/tenants or others who are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent.



- ***Agency and/or brokerage relationship disclosure - Standards of Practice 16-10, 16-11, 16-12***

### ***Standard of Practice 16-10***

REALTORS®, acting as buyer or tenant representatives shall disclose that relationship to the seller/landlord's representative or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord's representative or broker not later than execution of a purchase agreement or lease.

### ***Standard of Practice 16-11***

On unlisted property, REALTORS®, acting as buyer/tenant representative or brokers shall disclose that relationship to the seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. REALTORS® shall make any request for anticipated compensation from the seller/landlord at first contact.

### ***Standard of Practice 16-12***

REALTORS®, acting as representatives or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement.

### ***Case Study***

When Fred met Tony for lunch, he asked him whether Tony had sold his house yet. A shadow passed over Tony's face. "We're closing on the new place next week and it's only been shown five times in three months," he said. "I think I should get another agent. We had a 90 day exclusive with REALTOR® Sue and it's just about up." Fred



suggested that Tony talk to the REALTOR® who helped Fred sell his home. “I’ll give Laura a call, tell her about your situation and see if she thinks she can help.”

After Laura gets Fred’s call, she decides to call Sue to ask when Sue’s listing expires. Laura had heard of Sue, but had never spoken with her. When she reached Sue, after leaving a number of messages, Sue was cool and abrupt. Sue refused to discuss the matter or to divulge when the listing expired. Laura explained that, given the circumstances, she would go directly to the seller to get the information. Laura thought this might elicit a response from Sue. Instead, Sue hung up.

Laura then called Tony. He recognized her name from his conversation with Fred and seemed happy to hear from her. He asked if they could meet that evening. During their meeting, Laura discussed her services and explained that she would be happy to list Tony’s home when his exclusive with Sue expired.

Two weeks later Sue’s listing expired. Laura then listed Tony’s property. By the end of the month, the property was sold.

### ***Is Laura in violation of the Code?***

No. Laura followed the exact procedure required by Standard of Practice 16-4. Laura first contacted Sue, the listing agent, to determine the nature and expiration date of the listing. When Sue refused to give her the information, Laura then contacted the seller to secure such information.

### ***What was Laura’s obligation?***

Laura’s obligation was to first contact Sue to secure information about the nature and expiration date of the listing. She fulfilled that obligation in this case.



***Is Sue in violation of the Code?***

No. Sue had a choice. She could either disclose the information concerning the listing to Laura or not. Once Sue chose not to disclose the information, Laura was free to go directly to the seller and obtain the information and discuss the terms of a future listing or enter into an agreement that would become effective upon expiration of the current listing.

***What was Sue's obligation?***

None. Sue has no obligation to disclose the information. However, the consequence of not disclosing the information is that Laura has a right to contact the seller directly to secure the information.

***The REALTOR® Code of Ethics  
Protects the buying and selling public  
Promotes a competitive real estate marketplace  
Enhances the integrity of the industry  
Is your promise of performance  
Is your promise of professionalism***



## **Part 5**

### **Review Questions**

T F	1. Article 1 provides that REALTORS® pledge themselves to protect and promote the best interests of their client.
T F	2. Client means the person or entity with whom a REALTOR® has agency relationship.
T F	3. Customer means a party to a real estate transaction who receives information.
T F	4. Agent means a real estate licensee acting in an agency relationship.
T F	5. Article 2 states that REALTORS® shall avoid exaggeration, misrepresentation or concealment of pertinent facts relating to the property or the transaction.
T F	6. Article 3 states that REALTORS® do not have to cooperate with other brokers even if it is in the client's best interest.
T F	7. The essence of Article 11 is competence.
T F	8. Article 16 applies to both agency and non-agency relationships.
T F	9. Article 16 says REALTORS® shall not engage in any practice or take any action inconsistent with the agency or other exclusive relationship recognized by law that other REALTORS® have with clients.
T F	10. The Code of Ethics protects the buying and selling public, promotes a competitive marketplace, enhances the integrity of the industry and is the REALTORS® promise of performance and professionalism.

#### Section 2 - Answer Key

1. T	6. F
2. T	7. T
3. T	8. T
4. T	9. T
5. T	10. T