

SouthEast Valley Regional Association of REALTORS®
Board of Directors Meeting Minutes

July 23, 2015

1:00pm – 4:00pm

Board of Directors Room

1363 S. Vineyard Mesa, Arizona 85210

I. CALL TO ORDER

The meeting was called to order by President, Heidi Quigley Larke at 1:00pm.

Pledge of Allegiance

Roll Call:

Present: President, Heidi Quigley Larke; President Elect, Keri Hoge Means; Vice President, Craig Peck; Past President, Pam Frestedt; Treasurer, Dawn Johnson, Shane Cook, Marci Slater, Laurie McDonnell, Danette Earnest, Judy Warga, Duane Washkowiak, Liz Harris, Shivani Dallas, Margie Wilson

Absent: Tom Jovanovski

Guest: Dena Greenawalt

Staff: CEO, Janet Kane; Admin., Barney Thornton

A quorum was present.

II. CONFLICT OF INTEREST AND CONFIDENTIALITY POLICY REVIEW

III. MEMBERSHIP FORUM

IV. PRESENTATIONS – RAPAC Major Investors were recognized: Sterling R's: Craig Peck, Margie Wilson, Duane Washkowiak, Mary Ann Shryack, Randy Courtney and Cathy Joyce; Sterling Presidents Circle: Pam Frestedt and Janet Kane; Platinum R: Liz Harris. Dena Greenawalt gave a RAPAC update.

V. APPROVAL OF AGENDA – The agenda was approved as presented.

VI. CONSENT AGENDA - Motion and second – Motion carried.

A) Approval of Board Minutes – May 28, 2015

B) Approval of 2015 new SEVRAR members:

Individual Affiliate Members - 17, Institute Affiliate – 0, Designated Appraisers - 2, Broker Primary 02, Secondary Brokers – 7, MLS Only-0, Non Members – 4, REALTORS® - 179

C) Approval of 2015 New Committee Members

VII. ACTION ITEMS

A) **Motion:** To place on file the May, 2015 Financials. **Motion carried.**

B) **Motion:** To place on file the June, 2015 Financials. **Motion carried.**

C) **Motion:** To establish a 1% increase for membership growth for 2016 based on 2015 projected members. **Motion carried.**

D) Hot Summer Nights – Donations were taken for the purpose of a Scotch and Cigar basket for the RAPAC Hot Summer Nights auction.

E) **Motion:** To approve all the nominated Candidates running for 2016 Officer and Director positions. **Motion carried.**

F) **Motion:** To approve 2016 Candidates be allowed to submit a 2.5 minute video, responding to a prepared question, to be posted on the SEVRAR website next to their candidate photo and information. **Motion carried.**

G) **Motion and second:** To approve the 2015 Election Ballot as presented. **Motion carried.**

H) **Motion:** To approve updates to the Ombudsman Policy as amended. **Motion carried.** See attached.

I) **Motion:** To update the SEVRAR Citation Policy as presented. **Motion carried.** See attached.

J) **Motion:** Approval of recommendation from the Executive Committee. **Motion carried.** See attached.

K) Announcement of Candidates prior to approval of Leadership Committee. It was decided to follow current house policy.

VIII. UPDATES

- A) CEO Report – Janet Kane gave a CEO Report.
- B) ARMLS Report – Liz Harris gave and ARMLS update.
- C) Critical Need Task Force – Marci Slater gave a Critical Needs Task Force update.
- D) Committee Liaison Reports
- E) Task Force Reports
 - 1) Commercial Committee– Duane Washkowiak gave a Commercial Committee update. RPR Commercial Class is scheduled for September 28, 2015.
 - 2) Million Dollar PAG – Keri Hoge Means gave a PAG update.

IX. EXECUTIVE SESSION

The Board went into Executive Session at 3:38 pm.
Laurie McDonnell and Duane Washkowiak left the meeting at 3:38 pm.
Executive Session ended at 4:30 pm.

X. ANNOUNCEMENTS

- A) Next meeting date September 24th
- B) Special Meeting Dates – August 24th, and August 31st (tentative)
- C) Thank you from the Drew Family
- D) Thank you from Secure the Call
- E) Broker License Classes – July 10th through August 7th – ARMLS Location
- F) Hot Summer Nights – July 29th, Noah’s Event Center – 6:00pm-9:00pm
- G) Announcement of Candidates – July 30, 2015
- H) Advanced Trust Accounting for Property Managers – August 18 – 1pm-4pm
- I) Voting begins – August 21st
- J) Voting ends – August 28th
- K) Election results post – August 31, 2015
- L) AAR RAPAC Training – September 2, 2015 – Mission Palms
- M) AAR REALTOR® Caucus – September 3, 2015 – Mission Palms
- N) REALTOR® Expo – September 17th – Mesa Convention Center
- O) Leadership Retreat – October 28th & 29th – Fort McDowell (2016 Board and Committee Leadership only)

XI. NEW BUSINESS

XII. PRESIDENT’S REMARKS – SEVRAR Presidential qualifications were discussed and will be sent to the Bylaws Committee for changes as needed.

XIII. ADJOURNMENT

There being no further business to come before the Board the meeting adjourned at 4:30 pm.

Submitted by,

CEO, Janet L. Kane, CAE, CIPS, RCE

South East Valley Regional Association of REALTORS® (SEVRAR)

Ombuds Policy

Boards and associations of REALTORS® are charged with the responsibility of receiving and resolving ethics complaints. This obligation is carried out by local, regional and state grievance committees and professional standards committees.

Many “complaints” received by boards and associations do not expressly allege violations of specific Articles of the Code of Ethics, and many do not detail conduct related to the Code. Some “complaints” are actually transactional, technical, or procedural questions readily responded to.

It is the belief of the National Association of REALTORS® Professional Standards Committee that many ethics complaints might be averted with enhanced communications and initial problem-solving capacity at the local level. These ombuds procedures, which may be adopted and utilized at the discretion of boards and associations, are intended to provide that capability.

Role of Ombuds

The ombuds role is primarily one of communication and conciliation, not adjudication. Ombuds do not determine whether ethics violations have occurred. Rather they anticipate, identify, and resolve misunderstandings and disagreements before matters ripen into disputes and possible charges of unethical conduct.

Qualification and Criteria for Ombuds

At a minimum, ombuds ~~men~~ should be thoroughly familiar with the Code of Ethics, state real estate regulations, and current real estate practice. Ombuds must be REALTORS® of the local board/association, and meet the following standards.

- Must have a minimum of five years in the real estate business and be actively involved in real estate practice.
- Familiar with the NAR Code of Ethics, Arizona real estate statutes and regulations, and applicable MLS Rules and Regulations.
- *Primary member of SEVRAR.*
- Completed Professional Standards and Ombuds training, have served on a Grievance Committee and processed at least one complaint or have served on at least one Professional Standards hearing panel.
- [Cannot be a current officer of SEVRAR \(President, President Elect, Vice President, Past President or Treasurer\).](#)

Responsibilities

- Maintain confidentiality of all parties.
- Field general questions about real estate practice.
- Field general questions regarding transaction details.
- Field general questions Ethical practices.
- Field general questions options for filing complaints
- Field general questions of compliance with governing documents.

Selection and Term

Ombuds will be selected by the Professional Standards Chair and ratified by the Board of Directors. Appointment will be for a three-year term and may be renewed at the option of the Professional Standards Chair and ratified by the Board of Directors. SEVRAR will maintain a pool of at least eight (8) Ombuds to be available at all times.

Involving the Ombuds

Ombuds can field and respond to a wide variety of inquiries and complaints, including general questions about real estate practice, transaction details, ethical practice, and enforcement issues. Ombuds can also receive and respond to questions and complaints about members; can contact members to inform them that a client or customer has raised a question or issue; and can contact members to obtain information necessary to provide an informed response, with permission of the complainant.

Where an appropriately prepared written ethics complaint in the appropriate form is received, it can be initially referred to the ombuds in an attempt to resolve the matter. **EXCEPTION:** complaints alleging violations of the public trust (as defined in Article IV, Section 2 of the NAR Bylaws) may not be referred to an ombuds. "Public trust" refers to misappropriation of client or customer funds or property, willful discrimination, or fraud resulting in substantial economic harm.

In the event the ombuds concludes that a potential violation of the public trust may have occurred, the ombuds process shall be immediately terminated, and the parties shall be advised of the right to pursue a formal ethics complaint; to pursue a complaint with any appropriate governmental or regulatory body; to pursue litigation; or to pursue any other available remedy.

Right to Decline Ombuds Services

Persons filing complaints, or inquiring about the process for filing ethics complaints, will be advised that ombuds services are available to attempt to informally resolve their complaint. Such persons will also be advised that they may decline ombuds services and can have their complaint referred to ethics mediation (if available), or considered at a formal ethics hearing.

Resolution of Complaints

If the matter is resolved to the mutual satisfaction of all parties through the efforts of the ombuds, the original formal ethics complaint [if any] will continue to be processed until withdrawn by the complainant.

Failure to Comply With Agreed Upon Resolution

Failure or refusal of a member to comply with the terms of a mutually agreed upon resolution shall entitle the complainant to resubmit the original complaint or, where a formal complaint in the appropriate form had not been filed, to file an ethics complaint. The date upon which it is determined that a member is refusing to comply with the terms of a mutually agreed upon resolution shall be the "filing date" for the purpose of determining whether an ethics complaint is timely filed.

Referrals to the Grievance Committee or to State Regulatory Bodies

Ombuds cannot refer concerns about the conduct they have regarding the conduct of any party utilizing their services to the Grievance Committee, to the state real estate licensing authority, or to any other regulatory body. The prohibition is intended to ensure impartiality, confidentiality, and avoid the possible appearance of bias. Ombuds are, however, authorized to refer concerns that the public trust may have been violated to the Grievance Committee.

Suspension of filing deadlines: If the Board's informal dispute resolution processes (e.g. ombuds, mediation, etc.) are invoked or initiated by a complainant (or potential complainant) with respect to conduct that becomes the subject of a subsequent ethics complaint, the one hundred eighty (180) day filing deadline shall be temporarily suspended beginning with the date of the complainant's (or potential complainant's) request for informal dispute resolution service or assistance and shall resume when the informal dispute resolution procedures are concluded or terminated. Upon completion of the ombuds communication with the complainant, ombuds will email SEVRAR's Professional Standards Administrator a status report, indicating whether there was a resolution to the matter or if the complainant was referred back to SEVRAR's Professional Standard Administrator for further options. SEVRAR's Professional Standards Administrator is responsible for maintaining a record of the "suspended" time frame, and assuring that "time frame suspension" is reflected on any subsequent complaints that may be submitted by the complainant.

Questions about when information dispute resolution began or ended will be determined by the Board President or the President's designee.

Confidentiality of Ombuds Process

The allegations, discussions and decisions made in ombuds proceedings are confidential and shall not be reported or published by the board, any member of a tribunal, or any party under any circumstances except those established in the Code of Ethics and Arbitration Manual of the National Association as from time to time amended.

SEVRAR Ethics Citation Policy

I. Preliminary Procedures/Review by Grievance Committee

- A. Information about the Ethics Citation program, including the Citation Schedule, will be provided as part of the information sent to all potential complainants who are considering filing complaints through the SEVRAR Professional Standards Program.
- B. When a Grievance Panel receives a complaint, it shall review the complaint to determine if it includes allegations that are covered by the Citation Schedule. A Grievance Panel has the right to amend the complaint, adding or deleting Articles and/or Respondents, when appropriate.
1. If the Grievance Panel, after reviewing the information presented in the complaint and, taking all information in the complaint as true on its face, determines there is not a potential violation of any Article, the complaint shall be dismissed according to the usual terms of the Code of Ethics and Arbitration Manual, preserving the complainant's right to appeal the dismissal.
 2. If the complaint does not allege a violation of an Article covered by the Citation Schedule, the complaint shall be processed according to the usual terms of the Code of Ethics and Arbitration Manual.
 3. If the complaint solely alleges the violation of an Article(s) covered by the Citation Schedule, the Grievance Panel will review the information presented in the complaint and, taking all information in the complaint as true on its face, shall determine if there is a potential violation of the Code of Ethics. If the Grievance Panel finds a potential violation, it shall have the option to offer a citation to the respondent pursuant to Section II, below, which shall include the fine(s) and education class as established by the Citation Schedule. Or, in the alternative, the complaint may be processed according to the usual terms of the Code of Ethics and Arbitration Manual.
 4. If the complaint jointly alleges the violation of an Article(s) covered by the Citation Schedule **and** the violation of an Article(s) not covered by the Citation Schedule, the Grievance Panel will review the information presented in the complaint and, taking all information in the complaint as true on its face, shall determine if there is a potential violations of the Code of Ethics.
 - a. If the Grievance Panel solely finds a potential violation of an Article(s) covered by the Citation Schedule, it shall have the option to offer a citation to the respondent pursuant to Section II, below, which shall include the fine(s) and education class as established by the Citation Schedule, but only after expiration of complainant's time for appeal of the dismissed Article(s). Or, in the alternative, the complaint may be processed according to the usual terms of the Code of Ethics and Arbitration Manual.

- b. If the Grievance Panel solely finds a potential violation of an Article(s) not covered by the Citation Schedule, the complaint shall be processed according to the usual terms of the Code of Ethics and Arbitration Manual.
If the Grievance Panel finds a potential violation of **both** an Article(s) covered by the Citation Schedule and an Article(s) not covered by the Citation Schedule, the complaint shall be processed according to the usual terms of the Code of Ethics and Arbitration Manual.

II. Issuance of Citations

- A. The citation will be sent to the respondent, as well as to the REALTOR® Principal of the respondent's office. Notice of the citation **will not** be sent to the Complainant until after the citation has been satisfied.
 1. A copy of the complaint will be sent to the respondent within five (5) days of receipt by SEVRAR.
- B. The respondent will have five (5) days from transmission of the citation to provide notice as to whether the respondent will accept the citation, pay the fine, and complete the sanctioned education class, or whether the respondent requests a full hearing on the complaint.
 1. If the respondent does not reply within five (5) days of transmission of the citation, the hearing process will automatically be started.
 2. Acceptance of the citation by the respondent, including education for the first offense, shall be deemed to be a final resolution of the complaint, which shall not be appealable or subject to any further review.
 3. Payment, and proof of completion of the sanctioned class, must be received by SEVRAR within sixty (60) days of the date of respondent's acceptance.
 - a. Upon receipt of payment and proof of completion of the sanctioned class, the case will be deemed to be closed. Notice will be provided to the complainant that the citation(s) has been issued and paid in full.
 - b. Failure to pay the citation amount and provide proof of completion of the sanctioned class within sixty (60) days will result in the suspension of association membership(s) and MLS privileges until such time as the citation has been paid in full.

III. Limitations

- A. Any individual REALTOR® is limited in the number and type of citations that he/she may receive, according to the following rules:

1. No more than one (1) citation within a consecutive twelve (12) month period, starting with the date the first complaint was filed.
 2. No more than three (3) citations within a consecutive sixty (60) month period, starting with the date the **first complaint** was filed.
 3. No more than three (3) citations for the same Article violated at any time.
- B.** Should an individual respondent exceed the limits in subsection A, above, any further complaints will be processed as a regular complaint without the opportunity to participate in the citation program. The program Administrator will review the citation history of a respondent to determine eligibility, and if the respondent is not eligible to receive a citation, the complaint will be forwarded to the Grievance Panel with a notation that the complaint is not covered by the Citation Schedule. In such an instance, the Grievance Panel will not be told any specifics of why the complaint is not eligible.
- C.** To preserve an unbiased panel, prior to or during a hearing, the fact that a respondent has previously been issued a citation for any violation – whether or not it was paid – shall not be admissible in any ethics or arbitration hearing, including a hearing for a complaint where the respondent rejected a citation.
- D.** Citation sanctions will remain with the respondent's file indefinitely.
- E.** After a Hearing Panel has found a violation of the Code of Ethics, then it may consider past citations paid by the respondent in establishing a sanction only if the citation was for the same violation at issue in the hearing.
- F.** The Program Administrator will track the number of citations issued, the number of citations paid, and the violations for which citations were issued. This information may be provided in the aggregate but will not include details about the complaints nor identify the complainants or respondents.
- G.** **The allegations, discussions and decisions made in the citation process are confidential and shall not be reported or published by the board, any member of a tribunal, or any party under any circumstances except those established in Limitations, Section V of this policy and the Code of Ethics and Arbitration Manual of the National Association as from time to time amended.**

IV. Citation Schedule

- A.** The following violations are covered by the ethics citation program:
1. Article 3
 2. Article 4
 3. Article 5
 4. Article 6

5. Article 12
6. Article 14
7. Article 16

A Citation may contain violations of 1 or more of the covered Articles but for the purposes of fines, they shall be considered a single Citation.

B. Fines for citations to be completed within sixty (60) days shall be as follows:

- 1. For the first Citation, a fee of \$250. In addition, a three (3) hour education class commensurate with each Article violated.**
 - a. Class to be taught by online or live instruction with proof of completion**
- 2. For the second Citation, a fee of \$500. In addition, a three (3) hour education class commensurate with each Article violated.**
 - a. Class to be taught by online or live instruction with proof of completion.**
- 3. For the third and subsequent Citations, a fee of \$1,000. In addition, a three (3) hour education class commensurate with each Article violated.**
 - a. Class to be taught by online or live instruction with proof of completion**

EXECUTIVE COMMITTEE

Chair : Heidi Quigley Larke

Vice-Chair: Keri Hoge Means

Date: July 23, 2015

Staff Liaison: Janet Kane

RECOMMENDATION(S):

Motion: to approve the recommended action of SEVRAR legal Counsel, and Pay the fine/taxes as received from the Dept. of Economic Security. Further, for SEVRAR to adopt the Independent Contractors Agreement being drafted by Scott Drucker and Art Borque.

EXECUTIVE COMMITTEE ACTION:

BOARD OF DIRECTORS ACTION:

FISCAL NOTE:

SOURCE OF FUNDING:

RATIONALE: SEVRAR was contacted by the Dept. of Economic Security and interviewed staff regarding SEVRAR instructors. After the interview, we received a letter indicating that SEVRAR Instructors (18 named) should be classified as "Employees" according to the legal description. After appealing the initial letter and contacting Legal Counsel, we were advised to pay the amount determined to-date. (\$1,100) and adopt a new form to be drafted by Scott Drucker immediately. Further appeal could lead to more scrutiny and most likely a loss at any hearing. We would pay more in legal fees than the \$1,100 sited.