

ETHICS FOR REAL ESTATE PROFESSIONALS



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CHAPTER 1

ETHICS DEFINED

LEARNING OBJECTIVES:

After studying this chapter you will be able to:

1. Define ethics.
2. Differentiate between amoral and ethical values.
3. List and characterize two systems of ethics.
4. Differentiate between legal versus ethical codes.
5. Discuss the development of law and ethics.
6. List examples of Philosophers who contributed to the development of ethics.

Ethics is the “science of morals”. A moral is an accepted rule or standard of human behavior. The understanding of “accepted” is “accepted by society”, and accepted only insofar as the behavior in question being behavior that affects others in the society, even if only indirectly. The implication of this definition is therefore that private actions that have no impact on others are a matter for personal morality, which is not of business or organizational concern.

However, the distinction between personal morality and business morality may not always be so clearly defined. This is because individuals bring personal values to their jobs and to the real or perceived problems of moral choice that confront them at work. Moral choices sometimes must be made because of tensions within individuals, between individuals, or between individuals and what they believe to be the values that drive their organizations.

Furthermore, business organizations do not operate in a social vacuum. Because of the ways business organizations can and do affect the lives and livelihoods of society at large, some would argue that business organizations are kind of “moral agents” in society. Therefore managers and general publics alike often wrestle with defining exactly what constitutes the ethical way of doing business, and what constitutes proper constraints on individual self-interests, and by whom shall these constraints be imposed.

A further complexity results from the fact that businesses are increasingly becoming global in nature. Different countries have or seem to have vastly different customs and values. Understanding and assessing whether and how these different cultural and ethical conflicts should be taken into account is often most difficult.

ATTITUDE TO ETHICS

AMORAL:	Condone any actions that contribute to the corporate aim. Getting away with it is the key. No set of values other than greed.
LEGALISTIC:	Obey the letter of the law but not the spirit of it, especially if it conflicts with profits. Ethics

	ignored until it becomes a problem
RESPONSIVE:	Take the view that there is something to gain from ethical behavior, Using ethics as a tool to attain corporate aim.
EMERGING:	Ethical values becoming part of the culture. Codes of ethics being action documents, and likely to contain statements reflecting core value,
ETHICAL:	Total ethical profile. Everything done is ethical, and the right thing always done by everyone. The ideal.

In general, a key focus of ethics is the concept of integrity (or honesty). Integrity in broad terms will imply that no business-persons in the course of their business functions should be party to the falsification of any facts or information or make any statement which knowingly is misleading, false or deceptive in a material particular.

Another major focus of ethics is professional competence and due care, which implies that business professionals should always perform their functions in accordance with law and regulations. In other words, business transactions and professional functions should not be undertaken unless one possesses the required competence and technical skills.

A more controversial focus is the area of freedom from conflicts of interests. The preferred position of many is that one should always avoid concurrent involvement in any business, occupation or activity, which might result in the compromising of integrity, objectivity and independence of decision making.

ETHICAL SYSTEMS

Utilitarianism (teleological ethics)	The promotion that the best long-term interest of everyone concerned should be the moral standard: one should take those actions that lead to the greatest balance of good versus bad consequences
Deontology (Kantian ethics)	It deals with the concept of duty and the rightness of acts. It emphasizes maxims, duties, rules, and principles that are so important that they should be followed whatever the consequences.

In defining law and ethics and their relationship to each other it is necessary to distinguish between moral and legal rights and duties. Morally, a person's rights consist of claims that he can justly make to the conditions of well-being; his duties consist of what he can justly contribute to well being. Legal rights and duties—that is, claims and obligations enforceable at law—may or

may not be fully in harmony with prevalent moral opinion systems in which law and ethics and religion are closely interwoven, as in the law of Islam. The impact of moral opinion on law varies with the type of political structure and influence on public opinion.

In free societies the ultimate justification of law is that it serves moral ends. But the dependence of law on moral principles must not be taken to imply that there is a set of moral principles which can be laid down for guidance. However, most free societies are coming to be more or less consistent in principles that draw the line between law and morals. The task of ethics becomes two-fold: to bring out what is involved in the notion of a principle or norm of action and to recognize ideals that serve as agencies of guidance and control.

A number of consistent principles recognized in modern society are the individual, responsibility and equity. The end of law is to secure the greatest possible general individual self-assertion. In the Judeo-Christian ethic responsibility is a given: the best ordering of human society in which the individual may come to full manhood and satisfying existence. On the basis of equitable doctrine we can say confidently that morality is inseparable from the legal order; that right and wrong is part of the legal order.

DEFINITIONS

ETHICS: Ethics are standards of professional conduct and business practices adhered to by professionals in order to enhance their profession and maximize idealism, justice and fairness when dealing with the public, clients and other members of their profession (Merriam Webster).

LAWS: Laws are bodies of rules governing members of a community, state, organization, professional, etc ... and enforced by authority or compelling legislation (Merriam Webster).

LETTER vs. SPIRIT OF THE LAW: Being lawful is adhering to the letter of the law by following/obeying the rules and regulations. Being ethical is adhering to the spirit of the law or following your conscience or best moral judgment.

MORAL VALUES: Ethics in real estate deals with the law, rules, and regulations but has very little to say about ethics and moral values. The subject is of such great importance in today's society, yet, it is only hinted at in the literature of real estate topics on law and ethics. There are things of deadly earnest that can only be safely mentioned under "cover of a joke." Ethics is one of those deadly earnest things.

Webster's Seventh New College Dictionary defines ethics as the principles of conduct governing an individual or group or a system of moral values. Moral is further defined as a synonym of ethical meaning capable of right and wrong action when pertaining to an agency.

CULTURAL DIVERSITY: In our society the laws, rules, and regulations may be clear-cut but

the interpretation, application and implementation are cloudy at best, especially, in a culturally diverse society. The religions and philosophies of the world speak most elegantly of the nature of ethics. The combining of the two systems or codes, the legal codes and moral codes, can try the patience of the wisest sages let alone of a realtor. The writers of past and present literature mirror the dilemma of ethical/moral conduct. Jules Renard stated "in morals always do as others do; in art never." While Ernest Hemingway stated "What is moral is what you feel good about after". Or "Character is like a tree and reputation is like a shadow. The shadow is what we think of it; the tree is the real thing." Anon.

SEPARATION: Ethics seems to be separated from the law like the state has been separated from the church by the First Amendment's establishment clause, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; etc...." And yet, to explore the relationship between law and ethics we must look at the roots of our legal and ethical codes of conduct. The Greek, Roman and British empires have established our legal foundations while the great religions of our time Christianity, Judaism, Buddhism, Islamism, Hinduism, etc... have nurtured our moral foundations. Any attempt to separate the moral precepts of the great religions from modern day ethics would be amoral at its best and immoral at its worst. We can catch the gist of the dilemma between law and ethics in Lillian Hellman's saying: "cynicism is an unpleasant way of saying the truth". Ethics may not be fashionable today but as Lewis Mumford once stated, "trend is not destiny" and as Arthur C Clark further stated, "a faith that cannot survive collision with the truth is not worth many regrets."

ETHNIC ROOTS: The ethical value system of Real Estate Associations, for the most part in America, have derived from Judeo-Christian heritage. Society is a combination of pluralistic and or melting pot societies of diverse religions and cultures - which include Europeans, Hispanic, Blacks, Asians, Africans, among others. Set in this diverse background professional moral conduct appears to be based on a dichotomy of mutually exclusive groups or contradictory groups. While the laws, rules and regulations appear to be uniform codes, the ethics and morals appear to be diverse.

In trying to discern a variety of moral/ethical values and codes of conduct we can cite Bertrand Russell: "The most savage controversies are those about matters which there is no good evidence either way."

LEGAL vs. MORAL CODE: Fortunately, such is not the case with law and ethics, we can look at critical issues and separate the legal code from the moral code. For example, we can analyze the issue of murder. By law the issue of murder is a felony - a grave crime expressly declared by the common law or by statute. It may be further described as premeditated or first-degree murder or it may be due to negligence or third degree murder. The law in either instance deals with protection and retribution. By ethics, the issue of murder is based on a code of moral judgment like the Ten Commandments, "thou shall not commit murder." Ethical codes deal with justice and rational behavior. Ethics is a code of moral behavior based on rational acts of behavior with the general good of society as its outcome.

RATIONAL ACTS: Further complications arise in understanding how we make moral judgment. Barbara Herman in her textbook, *The Practice of Moral Judgment*, takes a look at the complications that arise when "we try to understand how we make moral judgments in an amoral world." Herman has stated that the 1980's emphasized material wealth --- and preparation for a lucrative profession. Judgments are based on experience and rightness where KANT describes rightness as rational Acts. The "law doesn't have much to say about vast areas of human conduct and relations. Instead, people are guided by a wide variety of values and moral pressures from family, church, and peer groups. The difficulty is that - whatever the nature of your relation to morality - if you are in it for a payoff, it won't work."

ANALYSIS LAW – ETHICS: The law and ethics of a situation can be analyzed and separated into a cause and effect result. For example: In the style section of Los Angeles Herald Examiner, staff writer Tricia Crane stated in a headline article " No place for the children". The rental housing market, Osumi and others say, goes to elaborate lengths to keep kids out Dick Osumi is in the trenches fighting a system that is becoming increasingly closed to the needs of children....California Landlords are using a loophole to get around the California law prohibiting "Adults only" apartment complexes. "Brian Hembacker, assistant counsel for the California Department of Fair Employment and Housing says over restrictive occupancy standards are being effectively used to create "Adults Only" complexes - despite the fact that they are illegal". The rule of law is clear but even clearer is the ethical issue.

THE LEGAL ISSUE: California law prohibiting "Adult Only" apartment complexes.

THE VIOLATION: Overly restrictive occupancy standards are being used to illegally bend the law.

THE ETHICAL ISSUE: The Los Angeles rental market and California landlords are becoming increasingly callous to the needs of children.

THE VIOLATION: The health and safety of children and families with children are in jeopardy.

ISSUE FOR A DECADE: The issue has been in the news for almost a decade. TIME staff writer Sharon Rosenhouse in an article entitled "LAW BANNING ADULTS ONLY RENTALS TENTATIVELY OK'D", wrote in the Los Angeles Times: Los Angeles City Council backed an ordinance outlawing housing discrimination based on age. Its dramatic impact would be to prohibit "Adults only" apartment rentals. The law would be "healthy for the industry" because landlords "can't afford to close people out". In a poll survey reported by Pollster Mervin Field Los Angeles Times stated that "75% in the poll oppose any Adults only apartments".

EFFECTIVE ETHICS:

To be effective, ethics must be expressed as a set of principles, or values, a standard of conduct by which the individual guides his own behavior and judges that of others. It refers to our conduct, socially and in the business , and in attitude toward others. When one takes advantage of his/her

position of trust to the detriment of another party solely for the purpose of one's own gain, we say he is unethical. Professional courtesy and ethics should not stop at those things which have been sanctioned by law.

HISTORICAL FOUNDATIONS OF LAW AND ETHICS

The great religions of the world gave birth to several concepts that evolved into structural precepts for society. A commonality of precepts evolved with the passing of tribal customs and tribal belief systems and the rise of the great religions of the world.

"The monotheistic idea of God unifies and coordinates the spiritual goods of the race. The unity of GOD involves the unity of all classes of men. This is a long step toward equality. The sense of sin became part and parcel of the common consciousness. It is a leveler and equalizer." For the good of the tribal society now becomes for the good of the individual. It must come to pass that a given society, if it is to retain the right to exist, must be continually extending the experience of its best things to men who were at one time outside, the pale of the best. The principle of individuality, once established, draws after it the principal of progress." "If it amounts to this, that wherever you find man, you find the eternal goods, and therefore the highest worth. The scale of market prices for the common man is forever disarranged by the discovery in him of something that is above price."

Two of the primary maxims in ethics are the utilitarian rule "Each man is to count for one, nobody for more than one". The second is Kant's--Always treat humanity, whether in yourself or another, as a person, and never as a thing."

"The only ground for counting every body as one, and nobody as more than one is the presence in all men of a something or other which possesses such value that existing social forms and economic accumulations cannot bid against it."

"The social question is the moral question, first, because its ultimate root is a choice between divergent ideals of the state, that , between different ways of viewing and organizing the total human life in time and space; and secondly, because, as a consequence, the question concerning the worth of the labor turns into the question concerning the worth of the laborer". The history of conscience is the history of the individual where 'conscience' means knowing along with " ...nothing can be good for one man that is not law for all men."

SELECT DEVELOPMENT OF LAW AND ETHIC

This section will review the historical evolution of law and ethics through select excerpts of legal philosophy from Plato to Hegel.

PLATO: Plato maintained that all wrong doing is involuntary and arises from ignorance since right conduct is happiness, and wrong conduct is unhappiness, and no one therefore would willingly choose wrong conduct which would lead to unhappiness. Plato's resolution was to make a

distinction between acts which were remediable in damages and acts which require punishment between injury and wrongdoing. If there had been a wrongdoing, the guilty person must not only pay for the injury, but must also be punished,...the court must teach him virtue.

Plato endeavored to extend his ideas of code making from the civil to the criminal field, and to devise a penal code based upon rational principles. In the history of jurisprudence, no one has been more fully aware of the necessity of the reign of law for any state which desires to realize the ultimate values of happiness and well-being for its citizens.

ARISTOTLE: Aristotle assigned to jurisprudence what must always be its main task, the establishment of a rational legal order for a given society. "Every art and every inquiry and similarly every action and pursuit, is thought to aim at some good; and for this reason the good has rightly been declared to be that at which all things aim." Law may also be a means in the inculcation of established ethical ideals and the promotion of new ones. The precepts of the law are to live honorably, not to hurt another, to give each man his due." He further maintained that the state must train and educate its citizen in the spirit of the law - for there is no merit in the most valuable laws if citizens are not trained and educated early. "If a man is to lead the good life he must practice it a long time."

Aristotle left a powerful legacy on the law of property, contract, inheritance, possession, crime and punishment and tort.

CICERO: Cicero established a bridgehead between ancient and modern legal thought that was to be dominant in Western thinking. Justice is one; it binds all human society, and is based on one law, which is right reason applied to command and prohibition. Cicero's jurisprudence embraced a humanitarian ideal....that what people have always sought is equality of rights before the law. Laws were invented to speak to all men at all times in one and the same voice. He paved the way for identification of law and morality.

ST. THOMAS AQUINAS: "Law is defined by St. Thomas as an ordinance of reason for the common good, made by him who has care of the community, promulgated." His definition is an attempt to embrace all the law, the eternal, the natural as well as the human; there is an effort to include what is regarded as ethically necessary. Law is a rule or measure of Acts whereby one is induced to act or restrained from acting. The elements of law...insist that it is a form of reason, holds that it must be made for the common good, by the guardian of the community, and to teach men to lead the good life.

St. Thomas stated several principles that are inherent in the law: Law binds one to Act. Therefore, first principle of human acts is the reason-modern substitutes for reasons have become utility, authority, experience. A second principle for common law asserts that choice between alternative rules of law shall rest on a deliberate balancing of possible ends and means. Third, the law must be for the common good. It rests on the ethical ideas that laws are rules of conduct which have as their final end the realization of happiness. Since, there are no limits to the good at which law aims, it is

not restricted to the good of a particular person but always directed to the common good. Finally laws must be promulgated or made known to the people. Man should be informed of the laws he was expected to obey.

St. Thomas' argument for law as a necessity of human society is entirely an ethical one. The approach today attempts to show law in some sense as an essential constituent of society, generally, altogether apart from its function as an instrument in the promotion of ethical conduct. When the observance of the letter of the law is against the equality of justice and public good it is equitable to disregard it.

FRANCIS BACON: For Francis Bacon, there was only one end of law and that was the happiness of the citizens. He asserted that private rights were dependent ultimately for their security upon the preservation of public law extended to everything that affected the well being of the state. In Rome, private law was that part which looked to the interests of individuals.

Bacon's ultimate achievement or ideal was that certainty was the primary necessity of law. The best law leaves the least to the discretion of the judge, and this can come about only if the laws are certain. Bacon's first remedy to achieve certainty is the basis of the theory of precedents and is therefore the root of the common law system of case law.

HOBBS: Hobbes distinguished law and right as complete opposites to each other. Right is the liberty which the laws leave us. The laws are the restraints by which we agree mutually to abridge one another's liberty. Hobbes emphasized the idea that morality was based on instructed prudence. In thinking of law he thus took his departure from neither the ethical nor the rational - his idea culminated in the doctrine that no positive law can be unjust. He admitted of the validity of ethical rules and conceded that they were anterior to the establishment of the state. Hobbes' idea became one of the most powerful weapons for the analysis of legal phenomena ever devised.

SPINOZA: His views contributed to the welfare of our social existence in that they taught social cooperation and contentment . He felt the attainment of virtuous habits is something for each man to achieve for himself if he can. Morality is not the business of the state--which is concerned solely with security. The roots of law in Spinoza's system is uniformity. He stated that " the moral judgment is determined by what a man would do if he were free to do it," and hence it is only necessary that he should think himself to be free in order to justify moral responsibility. Moral responsibility rests solely on the attitude displayed in so-called "choice".

LEIBNIZ: His central idea was that law should be taught both as a science and as a practical discipline. He insisted upon the necessity of a liberal education for the lawyer. When we train students in the law we are instructing them in one of the most vital functions of a culture – “the maintenance and development of a dominant order of society”. For Leibniz, God is the foundation of all-natural Right, God's existence serves as sufficient guarantee of the highest possible legal and moral condition in the universe. His philosophy was to exalt enlightenment, education and learning. He conceived justice as a communal virtue that is a virtue which preserves the

community. Leibniz defined six types of communities: the marital community, the family community of master and servant, the community of the household, the civil community comprising the city, province and the state and finally the community of God - the church. The aim of the community was to attain happiness. For Leibniz the end of the law emphasized two tasks—one, a proper consideration of the human being and second, the attainment of the common end as the measure of social values.

LOCKE: Locke believed he could, through reason, frame a set of moral rules which would be universally applicable. He took the position that human reason needed the assistance of religion in order to work out a system of ethics. At the heart of Locke's theory of civil society was the idea of the law. The great and chief end of men uniting into commonwealths, and putting themselves under government, is the preservation of their property. Law to Locke was a branch of ethics, and laws in their essence were moral rules. He did not think of law as a command but as that which is set up by authority as a rule for the measure of conduct. In Locke's system the capacity of Supreme Power is fiduciary - it establishes a pattern to which behavior should conform—which associates rewards and penalties for conformity or infractions.....the end of law is not to abolish or restrain, but to preserve and enlarge freedom. Where there is no law there is no freedom.

HUME: Hume based his studies on human nature. In his system justice serves both an ethical and a sociological function. In ethics ...what is approved is pleasant or promotes human happiness. A legal system to be socially useful must adhere strictly to its rules even at the expense of injustice in individual cases. Hume advanced the contention that public utility is the sole origin of legal justice and the sole foundation of its merit. For example a criminal has fewer rights than an innocent man but he is nevertheless accorded some measure of protection by law. Hume distinguished many of the separate ideas which jurists now find in the concept "LAW". Property in the broad sense employed by Hume embraced the individual's rights to life, liberty and health. Hume's solution of why men obey law is essentially a sociological and not an ethical one. He attempted to show that morality was founded on feeling and not reason. Justice can be understood only on the basis of sympathy for the welfare of human life.

KANT: Kant developed his system of law on principles that originate in reason. The Kantian rule became the celebrated injunction: "Every man is free to do that which he wills provided he infringes not the equal liberty of any other man." (Herbert Spencer). Kant's conception of right became what he termed Universal Law of Right: Every action is right which in itself or in the maxim on which it proceeds, is such that it can exist along with the freedom of the will of each and all in action. Kant made a sharp distinction between ethics and law. Ethics as distinguished from law, does not impose upon me the obligation to make the fulfillment of rights a maxim of my conduct. Kant assigned possession two meanings, physical possession and rational or juridical possession. He stated anyone who would assert the right to a thing as his, must be in possession of it as an object. "The property right is essentially a guarantee of the exclusion of other persons from the use of handling the thing. To enforce this right the holder must be able to assert his right." Kant defines moveable property as everything that can be destroyed. Kant limits the right of taking possession of the soil to the extent of the capacity to defend it. Kant's important contribution is his

idea that right is a thing that presupposes a collective will of all united in a relation of common possession. One of his most influential ideas is his theory of contract. Kant calls the transference of property to another its "alienation", and the act of united wills of two persons, by which what belongs to one passes to another, he terms "contract".

Kant held that four juridical acts are involved in every contract--two preparatory; an offer followed by an indication that the offer will be accepted; these two are followed by a promise and an acceptance. In civil law Kant's separation of offer and promise still prevail. By contract, Kant held, "I acquire the promise of another, as distinguished from the thing promised." His concept of the Criminal law turns on the idea of retributive justice. He defined crime as any transgression of the public law which makes him who commits it incapable of being a citizen.

FICHTE: For Fichte the basis of law is the idea of the legal relation. The conception of law is the conception of a relation between human beings. He defines this relationship as the compulsion upon each individual to restrict his freedom in recognition of the possibility of the freedom of others. He calls this the "relation of legality". In no sense is jurisprudence to be connected with morality. Jurisprudence is not a branch of ethics. Law merely permits but morality commands. Fichte's law is a law of freedom.

Individuals are free to accept or reject it. The end of law is a community of free beings. All positive laws follow the principle of right. They cannot be arbitrary and they must be such as every rational being would make them. Fichte reached the conclusion that natural law, or a legal relation between men, is not possible except in a commonwealth and under positive law. He asserted to supporting propositions: "all law is purely the law of reason", and "all law is the law of the state". Man separates himself from his citizenship in order to elevate himself with absolute freedom to morality; but in order to do so he becomes a citizen.

HEGEL: Hegel emphasized two ideas--will and personality. "Be a person and respect others as persons." From the ideas of will and personality he developed three categories of right -- possession of property, contract and wrongdoing and crime. Hegel's system is based upon a principle of knowledge, reason, which acts universally. The ethical rules which are to guide individuals must be given a universal form.

CONCLUSIONS

In the historical development of law there are many different points of view. It is for this reason that the law is unable to accept without modification many of the results of ethical inquiry. In modern terminology law creates a duty "...there are no properties of goodness and badness that states of affairs inherently possess, and no properties of rightness or wrongness that inhere in actions."

Value judgment in a broad sense compares contrasted ways of life; rationality, prudence and stability, (one of pleasure and happiness) versus the state of anxiety, confusion, inner turmoil and impulsive rashness. The first is a "good" way of life; the other is a "bad" way in terms of value. The best way of life involves the guidance of reason, and also the way of knowledge, of

understanding, of relative freedom from error.

Moral responsibility rests solely on the attitude displayed in so-called "choice". The act of choosing is essentially a proper and stringent expression of the ethical. Whenever in a stricter sense there is a question of an either/or one can always be sure that the ethical is involved.

An ethic must first decide upon the kind of social effects which it desires to achieve and the kind which it desires to avoid. It must then decide, as far as our knowledge permits, what acts will promote the desired consequences; these acts it will praise, while those having a contrary tendency it will condemn. To the extent to which man has freedom, he needs a personal morality to guide his conduct. "Good and evil grow up together and are bound in an equilibrium that cannot be surrendered. The most we can do is try to tilt the equilibrium toward the good." The least we can do is be aware of our standards of conduct least "....the habit of being amoral should make the immoral come to seem right."

CHAPTER 2

ETHICS IN SELLING

LEARNING OBJECTIVES:

After studying this chapter you will be able to:

1. Characterize the role of ethics in selling.
2. Discuss the salesperson's responsibility to the consumer.
3. Describe the salesperson's responsibility toward other sales people.

Ethics has to do with the moral principles governing conduct with what constitutes "good" actions and practices. What is "good" is generally evaluated according to some standard or code of ethics, either self-imposed or created by a society or some group within it, such as a profession or organization. Salespersons, too, have their personal and professional standards of conduct, and we will discuss some aspects of ethics in selling in this chapter.

A major question debated by all concerned with ethical problems over the years has been that of absolute versus relative moral standards. Some believe that such things as absolutes-rules that apply always and under all circumstances-exist in moral conduct; others hold that only relative ethics are possible-that is, that what is good necessarily varies with the time, the circumstances, and the situation.

Like most people living in a changing and imperfect world, the salesperson does not try to establish moral absolutes but rather strives to be as honest and professional as he can in the situation in which he finds himself. He recognizes that there are too many different types and levels of selling, too many complex sales situations to always be able to say categorically that what is ethical and good in one will be applicable to all. Each sales situation must be studied to evaluate what will contribute to the good of all concerned, not just in the short run but over a period of time. When situations are relatively simple and straightforward, it is easier to find the ethical solution. But in our highly competitive market economy, services and products to be sold have become increasingly complicated and technical. Because of the growing complexity of the environment in which selling takes place, the salesperson finds it ever more difficult, as well as more relevant and important, to practice ethical conduct.

To say that salespersons operate under a code of relative rather than absolute ethics is not to imply that ethics should be any less important in selling. On the contrary, because consumerism is a rising important force in the marketplace today, profit making can no longer be pursued by business to the exclusion of ethical and social consideration. Business must also be concerned with its social responsibilities to the consumer, to its workers, to the community, and to the nation as a whole. It is true that American business still operates in a competitive economy.

However, the code of the social Darwinism, emphasizing survival of the fittest, is no

longer acceptable. Competition today must be tempered with a social conscience. Higher levels of education and improved methods of communication have contributed to making man more aware of his social responsibilities. In addition, over half of our total population today is composed of people who are under 35 years of age. This predominantly younger group of consumers holds different ideas and tends to question past and existing practices. Ethics are, therefore, of increasing importance to the salesperson, and he should be fully informed as to how they relate to his particular activities.

THE SALESPERSON'S RESPONSIBILITY TO THE CONSUMER

The ethical salesperson will make it the major objective of his selling to serve and satisfy the consumer. In everyday practice this means that the salesperson should never sell the customer something he does not need. The product or service should be specifically geared to, and appropriate for, the customer; and if it will not benefit him, it is the salesperson's responsibility to so inform him. In other words, fulfilling the customer's needs or solving his problems is regarded as being of greater importance to the salesperson than the commission he can earn in making the sale.

To provide dedicated service to the consumer, the salesperson must keep informed on his product or service. Inadequate product knowledge can result in both ineffective and detrimental selling. In the case of a doctor, if he does not fully understand the effects of a drug, he can carelessly make a decision that could cause the death of his patient. In like fashion, the salesperson can harm the customer by giving him erroneous or inadequate information about the product and by failing to understand or by not caring about the customer's problems. Therefore, a salesperson who practices good ethics will refrain from making misleading, false, or uninformed statements about his product or service. He will also avoid using flattery, bribes, or high-pressure tactics to influence customers. Nor will he betray customer confidences or engage in personal gossip about his customers or others.

THE SALESPERSON'S RESPONSIBILITY TO HIS COMPANY

An ethical salesperson will also recognize his moral responsibilities to his company. Many salespersons have expense accounts and are easily tempted to "pad expenses." This practice, along with using company cars, equipment, and supplies for personal use, not only is dishonest but also greatly increases the costs of doing business. This ultimately can harm the salesperson himself as well as the company. The company also pays and relies on an individual to perform a given job. Consequently, if the salesperson works at less than his capacity, he is shortchanging his employer and simultaneously hurting himself in terms of personal growth and advancement.

Other unethical practices which are injurious to the company are faking customer reports, withholding vital information which the company needs, failure to use new tools or information provided by the company, and deliberately delaying sales until the company sponsors a contest. Sometimes an unscrupulous salesperson, in violation of company policy, will resort to lavish entertainment or the use of bribes to get business. Such practices have very damaging effects

when less favored customers learn about them; and although the salesperson is the one at fault, his actions also create an unfavorable image for the company.

Some salespersons will occasionally have a second job on the side. There is nothing wrong with having extra outside employment as long as it does not interfere with one's major job. However, it usually is very difficult to avoid "burning the candle at both ends," and the attention required by a second job will generally interfere with the salesperson's effectiveness in his principal one. Another related problem is for the salesperson to be involved in outside activities which represent a conflict of interest. Examples of this would be a salesperson who sells newspaper advertising and also serves on the board of directors of the local radio station, or a salesperson who sells plastic products and also has a financial interest in a wood product company. Generally, no man can serve two masters at the same time, and he is usually required to make a choice between the two.

Some companies make a practice of pirating salespersons from other companies, particularly if the salesperson is employed by a company which is a leader in its field and has an excellent training program. The salesperson is free to seek different employment. However, when he is working for one employer, he should give that employer a full day's work and not betray his confidence. He should also give the company advance notice if he plans to accept another job in order for his employer to have adequate time to find a replacement. In addition, all equipment and supplies belonging to the company should be returned, as should customer files, since they technically belong to the company and are needed by the person who will replace him.

THE SALESPERSON'S RESPONSIBILITY TO HIS COMPETITORS

It may appear strange that the salesperson has a responsibility to his competitors; one would think that the salesperson's only responsibility to those competing with him would be to outsell them. It is true that he will attempt to outsell his competitors; however, he must do it in an ethical and professional manner. In actual practice this means that the salesperson will emphasize the positive points of his own product or service rather than constantly "knocking" the competition. He will refrain from making misleading or false statements about the competitor's product, and also will not circulate any false rumors about its operations or salespersons.

Such practices may give the salesperson a temporary advantage, but ultimately the truth will be known, and then the salesperson will usually lose the confidence of the customer and of others as well. In some instances some salespersons have been known to sabotage or damage competitor products in an attempt to increase their own sales. Needless to say, such actions are not only unethical but illegal as well, and any person who resorts to such desperate measures has no business selling. Resorting to such actions is usually caused by the salesperson's own insecurity and lack of ability, and such persons usually remain in selling for a very short period.

THE SALESPERSON'S RESPONSIBILITY TO HIS FELLOW SALESPERSONS

The salesperson also has a responsibility to his fellow salespersons. He should share information with them and be willing to help them out on certain problems. In the case of new or beginning

salespersons, he should volunteer his services to help them learn their jobs. The salesperson is an individualist, but he must work together as members of a team. For if they work together and help each other the company will prosper and grow. And if the company prospers and grows, the individual salesperson will prosper with it.

Other ethical practices are to refrain from stealing sales from other salespersons and to avoid criticizing them in the presence of customers. The medical and legal professions are very strict in adhering to this standard, and salespersons should also practice it.

THE SALESPERSON'S RESPONSIBILITY TO THE GOVERNMENT AND SOCIETY

As previously mentioned, business can no longer be regarded as an island unto itself with profit making as its sole objective. On the contrary, business activities today are recognized as being closely related with how we will live and the type of society we will live in. Our government has stepped in to protect the interests of society, and there are many laws affecting business practices.

These laws relate not only to manufacturing of the product but such other aspects as pricing, discounts, allowances, advertising, warranties, and guarantees. The salesperson has a duty to be informed about these laws and to honor them. In addition, he should be concerned about the use of his product or service as it relates to society as a whole. He is not just an employee of a company, but a member of the human race who should be as concerned as anyone else about such social problems as unemployment, pollution, crime, war, and poverty.

THE SALESPERSON OWES SOMETHING TO HIMSELF AND HIS FAMILY

Finally, the salesperson has a responsibility to himself and to his family. He should select selling work which is of real interest to him and commensurate with his abilities. Otherwise he may take out his frustrations and emotional upsets on his family and jeopardize his own health and happiness. If he likes his job and is good at it, he will not only help himself and his family but will make a greater contribution to society as a whole. The salesperson has an obligation to keep himself in good physical and mental condition.

Furthermore, he should keep himself challenged and motivated in order to avoid leveling off in a state of indifference and complacency as sometimes happens to seasoned salespersons who become content and cease striving to improve themselves.

Insofar as his family is concerned, he should remember that his effectiveness in selling greatly determines their social and economic status. What he does in selling will affect the care they will receive, where and the type of home they will live in, the comforts they will enjoy, and the degree of education they will receive. He is a provider in every respect, and his family relies and depends upon him.

In summary, ethics are the morals or principles we practice in doing our work. The basic philosophy underlying an acceptable code of ethics can best be expressed in these words: "Do unto others, as you would have others do unto you." Being ethical requires that the salesperson

maintain a consideration of others, including his company, his fellow salespersons, competitors, society, and his family. In this way he will not only be an ethical salesperson, but a more successful one who has also helped to make a meaningful contribution to the world in which he lives.

CHAPTER 3

ETHICAL PROBLEMS IN THE REAL ESTATE INDUSTRY

LEARNING OBJECTIVES:

After studying this chapter you will be able to:

1. Identify ethical problems in real estate.
2. Diagnose the causes for a lack of ethics
3. Determine the broker's responsibility.
4. Explain and give examples of a code of ethics.
5. Demonstrate ethical behavior.

Real estate consumers are losing millions of dollars due to the lack of ethics in real estate. Many consumers are *not* informed of the dangers involved with selling or buying real estate. Further, consumers are being deliberately and massively misinformed. Consumer protection is real poor. There are three primary reasons why this is so.

1. Real Estate is a big money business. While 'cleaning up' the industry would be of enormous benefit to consumers, it would not be in the best interests of many agents and other businesses tied to the real estate industry.
2. The Real Estate Industry is 'controlled' by real estate agents. When governments want to know how to improve the real estate industry they ask people who represent real estate agents. They rarely ask people who represent consumers. The real estate industry not only deceives consumers, it also deceives governments.
3. Consumers' lack of knowledge. For many people, buying or selling a home is a once or twice in a lifetime experience. Consumers must rely upon agents to give them advice. This costs them thousands of dollars and much heartache. Also, many consumers never realize how much they are losing. They do not know what goes on 'behind the scenes'. One media researcher expressed it well when she said, "People are being exploited in ways they wouldn't dream of."

CAUSES FOR LACK OF ETHICS

There are two main causes of the ethical crisis in real estate. The first is that governments and consumer protection bodies have never thoroughly investigated the real estate industry. The second cause is far more worrying. The real estate industry is controlled by real estate agents or groups whose primary concern is to represent agents – not consumers. False and misleading information is regularly given to both governments and consumers.

BROKER RESPONSIBILITY

More often than not, the keyword in the real estate industry is “sell” rather than “represent.” Far too many brokers and agents appear to have an undeclared mission statement that reflects

“salesmanship” rather than “representation” of Buyer or Seller. A “Salesperson” should be more properly identified as a “Broker Associate” or “Broker Affiliate” to more properly identify the responsibility inherent in this role. First and foremost, ethically and legally, a real estate agent should be continuously aware of his fiduciary responsibility to the client. “Fiduciary” simply means handling funds on behalf of another. Integral to that definition is the element of trust which is as much a responsibility, as it is a privilege. Real estate breeds the most litigation of any industry, a fact that could very easily be a thing of the past if more agents would faithfully execute their fiduciary responsibility to their clients, it would reduce litigation significantly.

There is an adage in this industry that says, “20% of all agents make 80% of all sales”. Is this a measure of success? Perhaps, but a better measure of success would be one that measures character and responsible representation.

Here are a couple of opinions given by two well-known real estate professionals regarding lack of ethics in the real estate industry.

HAVE WE FORGOTTEN ABOUT THE CODE OF ETHICS?

(Sample Application)

As I read some of the postings on the Real Estate Forums and listen to those in class talk about agency relationships, I have to ask: “Is it any wonder the public is turning away from us?” What follows is an overview of what I am talking about.

It is in my opinion, very common for many in the real estate industry to put themselves and their own agenda well out in front of the needs and expectations of the client. I see a lot of exchanges between agents that clearly *put* their clients in the second seat. When a buyer’s agent makes a comment along the lines of: I make sure to put into the contract that I am to be paid X% or some amount of dollars by the seller or their agent. I flinch every time I see it as the Code of Ethics is pretty clear about keeping the negotiations for commissions out of the contract. The agents are not a party to the contract, so why does that stuff show up in the offers?

Not to single out the buyer’s agent, it is not uncommon for the seller’s agent to place some sort of demand on the buyer’s agent to attach the buyer broker agreement to an offer. What business is it of the seller’s agent concerning the contract between the agent and their buyer? Would a listing agent submit the listing agreement for the buyer’s consideration? Of course not. Again, the Code of Ethics frowns on such conduct. I for one feel that is a direct interference with the agency relationship the buyer’s agent has to their client.

One of the most common problems out there is the issue of the buyer’s agent presenting the offer. Seller’s agents for some reason resist the presence of a

buyer's agent to unrealistic proportions. Why? The probability of the seller accepting an offer when it is presented by its originator is increased many times over. How can the listing agent respond to the simplest of questions their client may have about the buyer or some term within the offer? That agent has probably never met with, spoken to or dealt with the buyer at any level, so many of the questions go unanswered or assumptions are made to the detriment of the buyer. Conversely, it is time for the seller's agent to make the presentation of a counteroffer for the same reasons.

Before I go on, lets try and put this into some sort of perspective. If you were ticketed for a minor accident and you feel you were not at fault, it is reasonable that you would hire an attorney and present your case before a judge and jury. So you hire an attorney and after several weeks of preparation, your trial is tomorrow at 9:00 AM.

The problem now is that you just got off the phone and your lawyer told you that he couldn't appear with you at your trial because of a conflict in his schedule. He assured you however that he has discussed your case with the City Attorney and your case will still be presented to the Court by the prosecution.. How would you feel? Did you receive quality representation?

Our buyers and sellers reasonably expect full representation, which in my opinion includes presenting their offer or counteroffer to the opposing principal. That does not suggest that the buyer's agent has any rights to remain with the seller and their agent while they discuss the offer.

Isn't it time that we simply relax and deliver a service within the expectations of the client? Isn't it time that we lower our defenses against each other and work with each other to the benefit of the client and not ourselves?

Of the 30 or 40 cases I have worked as an expert witness, well over 95% of them involved some sort of a breach of duty by the agent. And yes, there were instances where the scenario I have laid out here was part of the problem. The cost of litigation today is huge and E & O doesn't just sit back and write checks anymore. One trip to court could wipe out the last fifty or sixty commission checks. Tilt!

HOW TO HANDLE ANOTHER'S LISTING . . . AND DO SO IN AN ETHICAL WAY *(Sample Application)*

Whenever you go into another office's listing, follow the code of ethics. Respect

the other broker's agency as you'd want them to respect your agency at your listings.

Whether you are viewing the home for a buyer you are already representing, or just trying to keep up with the inventory in your chosen territory, the most important thing to remember is your professional image.

You need to gear your visit with the homeowner to leave behind two things: (1) your business card, and (2) a powerful, positive image of your business ethics.

Sometimes you'll be sorely tempted to let the sellers know how much better off they'd be with you and your firm than with the one they listed with. But if you yield to that temptation even with nothing more than a raised eyebrow at some strategic moment -- you're not only being unethical and unprofessional, you're also being stupid. When you're in another agent's listing, keep your eyebrows straight and your thoughts pure. Let no criticism of the other firm, or praise of your own, escape your lips. Never forget that when you're there, you personify the entire profession. Anything you do that harms the other agent harms the entire profession, yourself included.

Don't take this lightly. Unethical conduct, if allowed to feed on itself, will quickly take over in an area. Only you can stop that cancerous growth. If any of this unprofessional conduct is directed at you, don't respond by lowering yourself to that level. Both in the short run and over the long haul, the way to beat the unprofessionals is to be more professional yourself. The rules and code of ethics vary from one real estate board to another. Find out what these are in your area and follow them exactly. In many cities, you are forbidden by the rules and ethics of your local professional organization to drive over and inspect a property listed in the multiple unless you call the listing agent first and obtain his or her permission.

THE RIGHT WORDS

Let's assume that you've done that, and now you're at the door of Pathetic Realty's listing. You're carrying a legal pad so that you can take plenty of notes. Here's the phraseology:

"Good afternoon, Mrs. Simpson. My name is Tom Hopkins with Champions Unlimited. I called and obtained permission from Pathetic Realty to visit you. As you can see, I don't have a prospective buyer with me at this time.

" If you're not working for that firm, you have to let them know why you're there: "I would appreciate seeing your home so that when I am showing a buyer,

I'll be aware of all the improvements you've made."

Notice the exact words I spoke. Did I say that I am going to show their home? No. I said that when I'm showing a buyer, I'll be aware of all the improvements they've made.

Once inside the home, you say, "Mrs. Simpson, my purpose in stopping is two-fold: first, to familiarize myself with your property, and secondly, to prepare a comparable market survey for a client in the area who's thinking of having me professionally market his home. May I measure a few rooms and make a list of your improvements?"

If you're dressed professionally, if you use this phraseology with practiced confidence, if you gather information about her property like an expert, is she going to see a difference between your action and that of Fred Blodgett, the full time butcher and when-he-feels-like-it real estate person? This is the property that's been on the market for seven months. Nobody except Blodgett has shown it for 102 days, and Mrs. Simpson thinks there's always something strange about the people Fred brings through. Under these circumstances -- and similar things happen far too often in most areas -- do you suppose that Mr. and Mrs. Simpson are slightly unhappy they gave their listing to the butcher?

SELLER'S REACTION

Now let's examine two common ways that sellers react to this situation. In both, Mrs. Simpson decides to come with me as I go through the home. I didn't ask her to, but she's a little curious.

"Mrs. Simpson, that paneling certainly enhances the living room. Did you and Mr. Simpson put that in, or was it professionally done?" "I chose the wood and my husband installed it." "A very tasteful choice; your husband is a fine craftsman. The carpeting -- it's one of the plushest weaves I've ever seen. It's new, isn't it?" "Yes. We re-carpeted a year ago." "It gives your entire home an air of elegance."

I walk through the house with her, trying to establish rapport and making copious notes. I am professionally dressed and my manner is professional throughout the interview. Now, as I start to leave, what's very likely to take place? Remember that the lady has been waiting for action for seven months, and nothing's happened. Then I come in, open her eyes, and start to leave without including her in the bright world of professionalism -- a world I've just let her glimpse.

Here's what I say as I'm leaving: "Thank you again. I appreciate your

showing me your home, and I wish you and Mr. Blodgett at Pathetic Realty the very best of luck in selling it, Mrs. Simpson." "Mr. Hopkins, they're not calling -- they're not showing our home. What is the problem?" "Mrs. Simpson, I'd be happy to speak with you about your problem; however, ethically, while your home is listed, I can't discuss it with you. We at Champions Unlimited believe that our company is founded on ethics. So I hope you'll respect me for that." I want you to realize just what I did with that phraseology. Her home is listed with another firm; ethically I have no right to discuss her problem. Are you thinking, "But that part-timer isn't giving her any service"? That doesn't alter the fact that the Simpsons entered into a written agreement with Pathetic Realty; it doesn't alter the fact that the ethics of our profession require -- as they should -- as they must -- that you don't undermine another salesperson's agency. As long as it's listed, you can't discuss the price, the terms, or the problems.

And avoid any hint of smug arrogance when you talk about ethics or you'll offend more people than you impress. Say, "I hope you'll respect me for that" with humility.

Do most people respect someone who is ethical? Yes, they do. Think about why this is important for a minute. If Mrs. Simpson sees that you're too ethical to take advantage of Fred Blodgett, she'll feel that you wouldn't try to take advantage of her either. And she also feels that, since you don't rely on dirty tricks for your success, you must have the ability to be as successful as she's seen you are from the way you dress, the way you conduct yourself, and perhaps in the luxurious car you drive. Your refusal to be unethical, though disappointing to her momentarily, is the final touch that pulls it all together. When her listing with Blodgett, the butcher, at Pathetic Realty runs out, Mrs. Simpson is very likely to call you. Or, if your work expires, perhaps you'll call her when you can ethically do so.

LEAVE A LASTING AND POSITIVE IMPRESSION

Here's the second direction that Mrs. Simpson might take as you're leaving. She may say, "Thanks for stopping by. They just turned my property over to Sally Thompson at Pathetic Realty. She works full time in real estate, and I hope she'll do better. I really like Sally; I hope you'll call her when you have buyers." "So Sally seems to be giving you more service, then?" "Well, yes." "I haven't met Sally yet. But I will, and when I do, I'm going to tell her you think she's doing a great job. And you're lucky to be doing business with a professional."

What I tried to show you in the above cases is that, if they knock their agent, you don't. But you do take note of their feelings and the fact that, when their listing expires, they probably won't renew it with the same company. So if you show the Simpsons' home while you're showing your good listings, the odds

are excellent that they'll call you when their current listing expires.

When she praised her agent, what did I do? I jumped on the bandwagon, didn't I? And I'm certain you would, too. This makes sense and can only help you reach your personal goals. All Champions should work at this same high level (which most professionals do, by the way), with total commitment to ethics and fair play. In this manner, they will truly earn their fees.

When the day comes that all professionals function this way, then all the people who shouldn't have a license in the first place will have to get out of the business because they can't make any money.

Nobody belongs in real estate except ethical, honest, skillful, knowledgeable, devoted professionals. Out with all the amateurs! Out-perform them. Out-service them. Out-think them. But never knock the amateur. A Champion never knocks anyone. That's for bush-leaguers. Never knock the competition, no matter how richly they deserve it.

CHAPTER 4

CODE OF ETHICS AND STANDARDS OF PRACTICE OF THE NATIONAL ASSOCIATION OF REALTORS®

LEARNING OBJECTIVES:

After studying this chapter you will be able to:

1. Discuss a realtor's duties to his/her clients.
2. Outline the realtor's duties to the public.
3. List and explain the duties of a realtor.

Where the word REALTORS® is used in this Code and Preamble, it shall be deemed to include REALTOR-ASSOCIATE®S.

While the Code of Ethics establishes obligations that may be higher than those mandated by law, in any instance where the Code of Ethics and the law conflict, the obligations of the law must take precedence.

PREAMBLE

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

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

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

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

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

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

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

DUTIES TO CLIENTS AND CUSTOMERS

Article 1

When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly. (Amended 1/01)

• Standard of Practice 1-1

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

• Standard of Practice 1-2

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

As used in this Code of Ethics, “client” means the person(s) or entity(ies) with whom a REALTOR® or a REALTOR®’s firm has an agency or legally recognized non-agency relationship; “customer” means a party to a real estate transaction who receives information, services, or benefits but has no contractual relationship with the REALTOR® or the REALTOR®’s firm; “agent” means a real estate licensee (including

brokers and sales associates) acting in an agency relationship as defined by state law or regulation; and “broker” means a real estate licensee (including brokers and sales associates) acting as an agent or in a legally recognized non-agency capacity. (Adopted 1/95, Amended 1/99)

- **Standard of Practice 1-3**

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

- **Standard of Practice 1-4**

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

- **Standard of Practice 1-5**

REALTORS® may represent the seller/landlord and buyer/tenant in the same transaction only after full disclosure to and with informed consent of both parties. (Adopted 1/93)

- **Standard of Practice 1-6**

REALTORS® shall submit offers and counter-offers objectively and as quickly as possible. (Adopted 1/93, Amended 1/95)

- **Standard of Practice 1-7**

When acting as listing brokers, REALTORS® shall continue to submit to the seller/landlord all offers and counter-offers until closing or execution of a lease unless the seller/landlord has waived this obligation in writing. REALTORS® shall not be obligated to continue to market the property after an offer has been accepted by the seller/landlord. REALTORS® shall recommend that sellers/landlords obtain the advice of legal counsel prior to acceptance of a subsequent offer except where the acceptance is contingent on the termination of the pre-existing purchase contract or lease. (Amended 1/93)

- **Standard of Practice 1-8**

REALTORS® acting as agents or brokers of buyers/tenants shall submit to buyers/tenants all offers and counter-offers until acceptance but have no obligation to continue to show properties to their clients after an offer has been accepted unless otherwise agreed in writing. REALTORS® acting as agents or brokers of buyers/tenants shall recommend that buyers/tenants obtain the advice of legal counsel if there is a question as to whether a pre-existing contract has been terminated. (Adopted 1/93, Amended 1/99)

- **Standard of Practice 1-9**

The obligation of REALTORS® to preserve confidential information (as defined by state law) provided by their clients in the course of any agency relationship or non-agency relationship recognized by law continues after termination of agency relationships or any non-agency relationships recognized by law. REALTORS® shall not knowingly, during or following the termination of professional relationships with their clients:

- 1) reveal confidential information of clients; or
- 2) use confidential information of clients to the disadvantage of clients; or
- 3) use confidential information of clients for the REALTOR®'s advantage or the advantage of third parties unless:
 - a) clients consent after full disclosure; or
 - b) REALTORS® are required by court order; or
 - c) it is the intention of a client to commit a crime and the information is necessary to prevent the crime; or
 - d) it is necessary to defend a REALTOR® or the REALTOR®'s employees or associates against an accusation of wrongful conduct.

Information concerning latent material defects is not considered confidential information under this Code of Ethics. (Adopted 1/93, Amended 1/01)

• **Standard of Practice 1-10**

REALTORS® shall, consistent with the terms and conditions of their real estate licensure and their property management agreement, competently manage the property of clients with due regard for the rights, safety and health of tenants and others lawfully on the premises. (Adopted 1/95, Amended 1/00)

• **Standard of Practice 1-11**

REALTORS® who are employed to maintain or manage a client's property shall exercise due diligence and make reasonable efforts to protect it against reasonably foreseeable contingencies and losses. (Adopted 1/95)

• **Standard of Practice 1-12**

When entering into listing contracts, REALTORS® must advise sellers/landlords of:

- 1) the REALTOR®'s general company policies regarding cooperation with and compensation to subagents, buyer/ tenant agents and/or brokers acting in legally recognized non-agency capacities;
- 2) the fact that buyer/tenant agents or brokers, even if compensated by listing brokers,

or by sellers/landlords may represent the interests of buyers/tenants; and

- 3) any potential for listing brokers to act as disclosed dual agents, e.g. buyer/tenant agents. (Adopted 1/93, Renumbered 1/98, Amended 1/99)

• **Standard of Practice 1-13**

When entering into buyer/tenant agreements, REALTORS® must advise potential clients of:

- 1) the REALTOR®'s general company policies regarding cooperation and compensation; and
- 2) any potential for the buyer/tenant representative to act as a disclosed dual agent, e.g. listing broker, subagent, landlord's agent, etc. (Adopted 1/93, Renumbered 1/98, Amended 1/99)

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. (Amended 1/00)

• **Standard of Practice 2-1**

REALTORS® shall only be obligated to discover and disclose adverse factors reasonably apparent to someone with expertise in those areas required by their real estate licensing authority. Article 2 does not impose upon the REALTOR® the obligation of expertise in other professional or technical disciplines. (Amended 1/96)

• **Standard of Practice 2-2**

(Renumbered as Standard of Practice 1-12 1/98)

• **Standard of Practice 2-3**

(Renumbered as Standard of Practice 1-13 1/98)

• **Standard of Practice 2-4**

REALTORS® shall not be parties to the naming of a false consideration in any document, unless it be the naming of an obviously nominal consideration.

• **Standard of Practice 2-5**

Factors defined as “non-material” by law or regulation or which are expressly referenced

in law or regulation as not being subject to disclosure are considered not “pertinent” for purposes of Article 2. (Adopted 1/93)

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. (Amended 1/95)

• Standard of Practice 3-1

REALTORS®, acting as exclusive agents or brokers of sellers/ landlords, establish the terms and conditions of offers to cooperate. Unless expressly indicated in offers to cooperate, cooperating brokers may not assume that the offer of cooperation includes an offer of compensation. Terms of compensation, if any, shall be ascertained by cooperating brokers before beginning efforts to accept the offer of cooperation. (Amended 1/99)

• 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. (Amended 1/94)

• Standard of Practice 3-3

Standard of Practice 3-2 does not preclude the listing broker and cooperating broker from entering into an agreement to change cooperative compensation. (Adopted 1/94)

• Standard of Practice 3-4

REALTORS®, acting as listing brokers, have an affirmative obligation to disclose the existence of dual or variable rate commission arrangements (i.e., listings where one amount of commission is payable if the listing broker’s firm is the procuring cause of sale/lease and a different amount of commission is payable if the sale/lease results through the efforts of the seller/landlord or a cooperating broker). The listing broker shall, as soon as practical, disclose the existence of such arrangements to potential cooperating brokers and shall, in response to inquiries from cooperating brokers, disclose the differential that would result in a cooperative transaction or in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client. (Amended 1/94)

• Standard of Practice 3-5

It is the obligation of subagents to promptly disclose all pertinent facts to the principal’s

agent prior to as well as after a purchase or lease agreement is executed. (Amended 1/93)

• **Standard of Practice 3-6**

REALTORS® shall disclose the existence of an accepted offer to any broker seeking cooperation. (Adopted 5/86)

• **Standard of Practice 3-7**

When seeking information from another REALTOR® concerning property under a management or listing agreement, REALTORS® shall disclose their REALTOR® status and whether their interest is personal or on behalf of a client, and, if on behalf of a client, their representational status. (Amended 1/95)

• **Standard of Practice 3-8**

REALTORS® shall not misrepresent the availability of access to show or inspect a listed property. (Amended 11/87)

Article 4

REALTORS® shall not acquire an interest in or buy or present offers from themselves, any member of their immediate families, their firms or any member thereof, or any entities in which they have any ownership interest, any real property without making their true position known to the owner or the owner's agent or broker. In selling property they own, or in which they have any interest, REALTORS® shall reveal their ownership or interest in writing to the purchaser or the purchaser's representative. (Amended 1/00)

• **Standard of Practice 4-1**

For the protection of all parties, the disclosures required by Article 4 shall be in writing and provided by REALTORS® prior to the signing of any contract. (Adopted 2/86)

Article 5

REALTORS® shall not undertake to provide professional services concerning a property or its value where they have a present or contemplated interest unless such interest is specifically disclosed to all affected parties.

Article 6

REALTORS® shall not accept any commission, rebate, or profit on expenditures made for their client, without the client's knowledge and consent.

When recommending real estate products or services (e.g., homeowner's insurance, warranty programs, mortgage financing, title insurance, etc.), REALTORS® shall disclose to the client or customer to whom the recommendation is made any financial benefits or fees, other than real estate referral fees, the REALTOR® or REALTOR®'s firm may receive as a direct result of such

recommendation. (Amended 1/99)

• **Standard of Practice 6-1**

REALTORS® shall not recommend or suggest to a client or a customer the use of services of another organization or business entity in which they have a direct interest without disclosing such interest at the time of the recommendation or suggestion. (Amended 5/88)

Article 7

In a transaction, REALTORS® shall not accept compensation from more than one party, even if permitted by law, without disclosure to all parties and the informed consent of the REALTOR®'s client or clients. (Amended 1/93)

Article 8

REALTORS® shall keep in a special account, in an appropriate financial institution, separated from their own funds, monies coming into their possession in trust for other persons, such as escrows, trust funds, clients' monies, and other like items.

Article 9

REALTORS®, for the protection of all parties, shall assure whenever possible that agreements shall be in writing, and shall be in clear and understandable language expressing the specific terms, conditions, obligations and commitments of the parties. A copy of each agreement shall be furnished to each party upon their signing or initialing. (Amended 1/95)

• **Standard of Practice 9-1**

For the protection of all parties, REALTORS® shall use reasonable care to ensure that documents pertaining to the purchase, sale, or lease of real estate are kept current through the use of written extensions or amendments. (Amended 1/93)

DUTIES TO THE PUBLIC

Article 10

REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, or national origin. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, or national origin. (Amended 1/90)

REALTORS®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, handicap, familial status, or national

origin. (Amended 1/00)

• **Standard of Practice 10-1**

REALTORS® shall not volunteer information regarding the racial, religious or ethnic composition of any neighborhood and shall not engage in any activity which may result in panic selling. REALTORS® shall not print, display or circulate any statement or advertisement with respect to the selling or renting of a property that indicates any preference, limitations or discrimination based on race, color, religion, sex, handicap, familial status, or national origin. (Adopted 1/94)

• **Standard of Practice 10-2**

As used in Article 10 “real estate employment practices” relates to employees and independent contractors providing real-estate related services and the administrative and clerical staff directly supporting those individuals. (Adopted 1/00)

Article 11

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. (Amended 1/95)

• **Standard of Practice 11-1**

When REALTORS® prepare opinions of real property value or price, other than in pursuit of a listing or to assist a potential purchaser in formulating a purchase offer, such opinions shall include the following:

- 1) identification of the subject property
- 2) date prepared
- 3) defined value or price
- 4) limiting conditions, including statements of purpose(s) and intended user(s)
- 5) any present or contemplated interest, including the possibility of representing the

seller/landlord or buyers/tenants

- 6) basis for the opinion, including applicable market data
- 7) if the opinion is not an appraisal, a statement to that effect (Amended 1/01)

• **Standard of Practice 11-2**

The obligations of the Code of Ethics in respect of real estate disciplines other than appraisal shall be interpreted and applied in accordance with the standards of competence and practice which clients and the public reasonably require to protect their rights and interests considering the complexity of the transaction, the availability of expert assistance, and, where the REALTOR® is an agent or subagent, the obligations of a fiduciary. (Adopted 1/95)

• **Standard of Practice 11-3**

When REALTORS® provide consultive services to clients which involve advice or counsel for a fee (not a commission), such advice shall be rendered in an objective manner and the fee shall not be contingent on the substance of the advice or counsel given. If brokerage or transaction services are to be provided in addition to consultive services, a separate compensation may be paid with prior agreement between the client and REALTOR®. (Adopted 1/96)

Article 12

REALTORS® shall be careful at all times to present a true picture in their advertising and representations to the public. REALTORS® shall also ensure that their professional status (e.g., broker, appraiser, property manager, etc.) or status as REALTORS® is clearly identifiable in any such advertising. (Amended 1/93)

• **Standard of Practice 12-1**

REALTORS® may use the term “free” and similar terms in their advertising and in other representations provided that all terms governing availability of the offered product or service are clearly disclosed at the same time. (Amended 1/97)

• **Standard of Practice 12-2**

REALTORS® may represent their services as “free” or without cost even if they expect to receive compensation from a source other than their client provided that the potential for the REALTOR® to obtain a benefit from a third party is clearly disclosed at the same time. (Amended 1/97)

• **Standard of Practice 12-3**

The offering of premiums, prizes, merchandise discounts or other inducements to list,

sell, purchase, or lease is not, in itself, unethical even if receipt of the benefit is contingent on listing, selling, purchasing, or leasing through the REALTOR® making the offer. However, REALTORS® must exercise care and candor in any such advertising or other public or private representations so that any party interested in receiving or otherwise benefiting from the REALTOR®'s offer will have clear, thorough, advance understanding of all the terms and conditions of the offer. The offering of any inducements to do business is subject to the limitations and restrictions of state law and the ethical obligations established by any applicable Standard of Practice. (Amended 1/95)

• **Standard of Practice 12-4**

REALTORS® shall not offer for sale/lease or advertise property without authority. When acting as listing brokers or as subagents, REALTORS® shall not quote a price different from that agreed upon with the seller/landlord. (Amended 1/93)

• **Standard of Practice 12-5**

REALTORS® shall not advertise nor permit any person employed by or affiliated with them to advertise listed property without disclosing the name of the firm. (Adopted 11/86)

• **Standard of Practice 12-6**

REALTORS®, when advertising unlisted real property for sale/lease in which they have an ownership interest, shall disclose their status as both owners/landlords and as REALTORS® or real estate licensees. (Amended 1/93)

• **Standard of Practice 12-7**

Only REALTORS® who participated in the transaction as the listing broker or cooperating broker (selling broker) may claim to have “sold” the property. Prior to closing, a cooperating broker may post a “sold” sign only with the consent of the listing broker.
(Amended 1/96)

Article 13

REALTORS® shall not engage in activities that constitute the unauthorized practice of law and shall recommend that legal counsel be obtained when the interest of any party to the transaction requires it.

Article 14

If charged with unethical practice or asked to present evidence or to cooperate in any other way, in any professional standards proceeding or investigation, REALTORS® shall place all pertinent facts before the proper tribunals of the Member Board or affiliated institute, society, or council in

which membership is held and shall take no action to disrupt or obstruct such processes.
(Amended 1/99)

• **Standard of Practice 14-1**

REALTORS® shall not be subject to disciplinary proceedings in more than one Board of REALTORS® or affiliated institute, society or council in which they hold membership with respect to alleged violations of the Code of Ethics relating to the same transaction or event. (Amended 1/95)

• **Standard of Practice 14-2**

REALTORS® shall not make any unauthorized disclosure or dissemination of the allegations, findings, or decision developed in connection with an ethics hearing or appeal or in connection with an arbitration hearing or procedural review. (Amended 1/92)

• **Standard of Practice 14-3**

REALTORS® shall not obstruct the Board's investigative or professional standards proceedings by instituting or threatening to institute actions for libel, slander or defamation against any party to a professional standards proceeding or their witnesses based on the filing of an arbitration request, an ethics complaint, or testimony given before any tribunal. (Adopted 11/87, Amended 1/99)

• **Standard of Practice 14-4**

REALTORS® shall not intentionally impede the Board's investigative or disciplinary proceedings by filing multiple ethics complaints based on the same event or transaction. (Adopted 11/88)

DUTIES TO REALTORS®

Article 15

REALTORS® shall not knowingly or recklessly make false or misleading statements about competitors, their businesses, or their business practices. (Amended 1/92)

• **Standard of Practice 15-1**

REALTORS® shall not knowingly or recklessly file false or unfounded ethics complaints. (Adopted 1/00)

Article 16

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.
(Amended 1/98)

• **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.
(Adopted 1/93, Amended 1/95)

• **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. (Amended 1/98)

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 subagency or cooperation. (Amended 1/93)

• **Standard of Practice 16-3**

Article 16 does not preclude REALTORS® from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage). However, information received through a Multiple Listing Service or any other offer of cooperation may not be used to target clients of other REALTORS® to whom such offers to provide services may be made.
(Amended 1/93)

• **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. (Amended 1/94)

- **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. (Adopted 1/94, Amended 1/98)

- **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. (Amended 1/98)

- **Standard of Practice 16-7**

The fact that a client has retained a REALTOR® as an agent or in another exclusive relationship in one or more past transactions does not preclude other REALTORS® from seeking such former client's future business. (Amended 1/98)

- **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. (Amended 1/98)

- **Standard of Practice 16-9**

REALTORS®, prior to entering into an agency agreement or other exclusive relationship, have an affirmative obligation to make reasonable efforts to determine whether the client is subject to a current, valid exclusive agreement to provide the same type of real estate service. (Amended 1/98)

- **Standard of Practice 16-10**

REALTORS®, acting as agents of, or in another relationship with, buyers or tenants, shall disclose that relationship to the seller/landlord's agent or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord's agent or broker not later than execution of a purchase agreement or lease. (Amended 1/98)

- **Standard of Practice 16-11**

On unlisted property, REALTORS® acting as buyer/tenant agents or brokers shall disclose that relationship to the seller/landlord at first contact for that client 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. (Amended 1/98)

- **Standard of Practice 16-12**

REALTORS®, acting as agents 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. (Amended 1/98)

- **Standard of Practice 16-13**

All dealings concerning property exclusively listed, or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's agent 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. (Adopted 1/93, Amended 1/98)

- **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. (Amended 1/98)

- **Standard of Practice 16-15**

In cooperative transactions REALTORS® shall compensate cooperating REALTORS® (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other REALTORS® without the prior express knowledge and consent of the cooperating broker.

- **Standard of Practice 16-16**

REALTORS®, acting as subagents or buyer/tenant agents or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer's agents or brokers nor make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation. (Amended 1/98)

• **Standard of Practice 16-17**

REALTORS® acting as subagents or as buyer/tenant agents or brokers, shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker. (Amended 1/98)

• **Standard of Practice 16-18**

REALTORS® shall not use information obtained by them from the listing broker, through offers to cooperate received through Multiple Listing Services or other sources authorized by the listing broker, for the purpose of creating a referral prospect to a third broker, or for creating a buyer/tenant prospect unless such use is authorized by the listing broker. (Amended 1/93)

• **Standard of Practice 16-19**

Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/landlord. (Amended 1/93)

• **Standard of Practice 16-20**

REALTORS®, prior to or after terminating their relationship with their current firm, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude REALTORS® (principals) from establishing agreements with their associated licensees governing assignability of exclusive agreements. (Adopted 1/98)

Article 17

In the event of contractual disputes or specific non-contractual disputes as defined in Standard of Practice 17-4 between REALTORS® (principals) associated with different firms, arising out of their relationship as REALTORS®, the REALTORS® shall submit the dispute to arbitration in accordance with the regulations of their Board or Boards rather than litigate the matter.

In the event clients of REALTORS® wish to arbitrate contractual disputes arising out of real estate transactions, REALTORS® shall arbitrate those disputes in accordance with the regulations of their Board, provided the clients agree to be bound by the decision.

The obligation to participate in arbitration contemplated by this Article includes the obligation of REALTORS® (principals) to cause their firms to arbitrate and be bound by any award.

(Amended 1/01)

• **Standard of Practice 17-1**

The filing of litigation and refusal to withdraw from it by REALTORS® in an arbitrable matter constitutes a refusal to arbitrate. (Adopted 2/86)

• **Standard of Practice 17-2**

Article 17 does not require REALTORS® to arbitrate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to arbitrate before the Board. (Amended 1/93)

• **Standard of Practice 17-3**

REALTORS®, when acting solely as principals in a real estate transaction, are not obligated to arbitrate disputes with other REALTORS® absent a specific written agreement to the contrary. (Adopted 1/96)

• **Standard of Practice 17-4**

Specific non-contractual disputes that are subject to arbitration pursuant to Article 17 are:

- 1) Where a listing broker has compensated a cooperating broker and another cooperating broker subsequently claims to be the procuring cause of the sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (Adopted 1/97)
- 2) Where a buyer or tenant representative is compensated by the seller or landlord, and not by the listing broker, and the listing broker, as a result, reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (Adopted 1/97)

- 3) Where a buyer or tenant representative is compensated by the buyer or tenant and, as a result, the listing broker reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (Adopted 1/97)
- 4) Where two or more listing brokers claim entitlement to compensation pursuant to open listings with a seller or landlord who agrees to participate in arbitration (or who requests arbitration) and who agrees to be bound by the decision. In cases where one of the listing brokers has been compensated by the seller or landlord, the other listing broker, as complainant, may name the first listing broker as respondent and arbitration may proceed between the brokers. (Adopted 1/97)

CODE OF ETHICS AND PROFESSIONAL CONDUCT – THE REAL ESTATE INDUSTRY IN GENERAL

In order to enhance the professionalism of the real estate industry, and maximize protection for members of the public dealing with the real estate licensees, the following standards of professional conduct and business practices are adopted:

(a) **Unlawful conduct.** Licensees shall not engage in "fraud" or "dishonest dealing" or "conduct which would have warranted the denial of an application for a real estate license" including , but not limited to, the following acts and omissions:

- (1) Knowingly making substantial misrepresentation of the likely market value or real property to its owner either for the purpose of securing a listing for the purpose of acquiring an interest in the property for the licensee's own account.
- (2) The statement or implication by a licensee to an owner of real property during listing negotiations that the licensee is precluded by law, regulation or by the rules of any organization, other than the broker firm seeking the listing, from charging less than the commission or fee quoted to the owner by the licensee.
- (3) The failure by a licensee acting in the capacity of an agent in a transaction of the sale, lease or exchange of real property to disclose to a prospective purchaser or lessee facts known to the licensee materially affecting the value or desirability of the property, when

the licensee has reason to believe that such facts are not known to, nor readily observable by a prospective purchaser or lessee.

- (4) When seeking a listing, representation to an owner of the real property that the soliciting licensee has obtained a bona fide written offer to purchase the property, unless at the time of the representation the licensee has possession of a bona fide written offer to purchase.
- (5) Presenting competing offers to purchase real property to the owner by the listing broker in such a manner as to induce the owner to accept the offer which provide the greatest compensation to the listing broker, without regard to the benefits, advantages and/or disadvantages to the owner.
- (6) Knowingly underestimating the probable closing costs in a transaction in a communication to the prospective buyer or seller of real property in order to induce that person to make or accept an offer to purchase the property.
- (7) Failing to explain to the parties or prospective parties to a real estate transaction the meaning and probable significance of a contingency in an offer or contract that the licensee knows or reasonably believes may affect the closing date of the transaction, or the timing of the vacating of the property by the seller or its occupancy by the buyer.
- (8) Knowingly making a false or misleading representation to the seller of real property as to the form, amount and/or treatment of a deposit toward purchase of the property made by an offeror.
- (9) The refunding by a licensee, when acting as an agent or sub-agent for seller, of all or part of an offeror's purchase money deposit in a real estate sales transaction after the seller has accepted the offer to purchase, unless the licensee has the express permission of the seller to make the refund.
- (10) Failing to disclose to the seller of real property in a transaction in which the licensee is acting in the capacity of an agent, the nature and extent of any direct or indirect interest that the licensee expects to acquire as a result of the sale. The prospective purchase of the property by a person related to the licensee by blood or marriage, purchase by an entity in which the licensee has an ownership interest, or purchase by any other person with whom the licensee occupies a special relationship where there is a reasonable probability that the licensee could be indirectly acquiring an interest in the property shall be disclosed.

(b) **Unethical conduct.** In order to maintain a high level of ethics in business practice, the real estate licensees should avoid engaging in any of the following activities:

- (1) Representing, without a reasonable basis, the nature and/or condition of the interior or exterior features of a property when soliciting an offer.
- (2) Failing to respond to reasonable inquiries of a principal as to the status or extent of efforts to market property listed exclusively with the licensee.
- (3) Representing as an agent that any specific service is free when, in fact, it is covered by a fee to be charged as part of the transaction.
- (4) Failing to disclose to a person when first discussing the purchase of real property, the existence of any direct or indirect ownership interest of the licensee in the property.
- (5) Recommending by a salesperson to a party to a real estate transaction that a particular lender or escrow service be used when the salesperson believes his or her broker has a significant beneficial interest in such entity without disclosing this information at the time the recommendation is made.
- (6) Claiming to be an expert in an area of specialization in real estate brokerage, e.g., appraisal, property management, industrial setting, etc., if in fact, the licensee has had no special training, preparation or experience in such area.
- (7) Using the term "appraisal" in any advertising or offering for promoting real estate brokerage business to describe a real property evaluation service to be provided by the licensee unless the evaluation process will involve a written estimate of value based upon the assembling, analyzing and reconciling of facts and value indicators for the real property in question.
- (8) Failing to disclose to the appropriate regulatory agency any conduct on part of a financial institution which reasonably could be construed as a violation of The Housing Financial Discrimination Act of 1977. (anti-redlining)-Part 6 (commencing with section 35800) of Division 24 of the Health and Safety Code.
- (9) Representing to a customer or prospective customer that because the licensee or his or her broker is a member of, or affiliated with, a franchised real estate brokerage entity, that such entity shares substantial responsibility, with the licensee, or his or her broker, for the proper handling of transactions if such is not the case.
- (10) Participating in the organized disclosure to a representative, agent, or employee of a public or private school, firm, association, organization or corporation conducting real estate preparatory course the language of any question used in a state real estate license examination, at the request of such person or entity.
- (11) Demanding a commission or discount by a licensee purchasing real property for

one's own account after an agreement in principle has been reached with the owner as to the terms and conditions of purchase without any reference to price reduction because of the agents licensed status.

(c) **Beneficial Conduct.** In the best interest of all licensees and the public they serve, brokers and sales persons are encouraged to pursue the following beneficial business practices:

- (1) Measuring success by the quality and benefits rendered to the buyers and sellers in real estate transactions rather than by the amount of compensation realized as a broker or salesperson.
- (2) Treating all parties to a transaction honestly.
- (3) Promptly reporting any apparent violations of the Real Estate Law.
- (4) Using care in the preparation of any advertisement to present an accurate picture or message to the reader, viewer, or listener.
- (5) Submitting all written offers as a matter of top priority.
- (6) Maintaining adequate and complete records of all one's real estate dealings.
- (7) Keeping oneself current on factors affecting the real estate market in which the licensee operates as an agent.
- (8) Making a full, open, and sincere effort to cooperate with other licensees, unless the principal has instructed the licensee to the contrary.
- (9) Attempting to settle disputes with other licensees through mediation or arbitration.
- (10) Complying with these standards of professional conduct, and the Code of Ethics of any organized real estate industry group of which the licensee is a member.

CHAPTER 5

ETHICS AND STANDARDS OF THE APPRAISAL INSTITUTE

LEARNING OBJECTIVES:

After studying this chapter you will be able to:

1. Illustrate examples of the standards of the Appraisal institute.
2. Elaborate on the code of professional ethics.
3. Explain the uniform standards of the professional appraiser.
4. List and give examples of consequences of violations of standards.
5. Distinguish between remedial and disciplinary measures.
6. Explain the difference among censure, suspension and expulsion.
7. Explain the use of designations, emblems and logos by members.

This section provide you with some background on the Appraisal Institute's Code of Professional Ethics and Standards of Professional Appraisal Practice; what they are, why they exist, how they are revised, and how they are enforced.

The Appraisal Institute's predecessor organizations - the Society of Real Estate Appraisers and the American Institute of Real Estate Appraisers - were formed in the 1930s, during the Great Depression, to help standardize the appraisal process by promoting professional education and upholding high Ethics and Standards. To this day, the Appraisal Institute remains faithful to the ideal of high Ethics and Standards set forth by its predecessors. Each and every Member of the Appraisal Institute agrees to conduct his or her professional activities in accordance with the Appraisal Institute's Code of Professional Ethics and Standards of Professional Appraisal Practice. As evidence of its commitment to the Code of Ethics and Standards the Appraisal Institute has a highly refined peer review process which investigates possible violations of the Code of Professional Ethics and Standards of Professional Appraisal Practice. Violations of the Code of Ethics or Standards can result in remedial or disciplinary actions. The Ethics and Counseling Committee and its Divisions, the Ethics Administration Division and the Appellate Division have specific responsibilities in the administration of peer review files.

It is the responsibility of the Appraisal Standards Council to ensure that the Appraisal Institute's Standards and Code of Ethics are relevant and appropriate in today's rapidly evolving and constantly changing marketplace. The Appraisal Standards Council spends much of its time studying the hot appraisal issues of the day and then developing and proposing specific language changes to the Standards and Code of Ethics.

CODE OF PROFESSIONAL ETHICS

The importance of the role of the real property appraiser, consultant, and review appraiser in our economy places ethical obligations upon the men and women who serve in these capacities. In

recognition of these obligations, the Appraisal Institute has adopted a Code of Professional Ethics. Each Member of the Appraisal Institute is required to conduct his or her activities in accordance with the requirements of the Code of Professional Ethics.

STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP)

The Standards establish requirements for professional appraisal practice. The Standards deal with the procedures to be followed in performing an appraisal, review, or consulting service and the manner in which an appraisal, review, or consulting service is communicated.

The Appraisal Institute's Standards of Professional Appraisal Practice include the following components:

1) The Uniform Standards of Professional Appraisal Practice

The Uniform Standards of Professional Appraisal Practice ("USPAP") are promulgated by the Appraisal Standards Board of The Appraisal Foundation.

- Standards 1 and 2 establish requirements for the development and communication of a real property appraisal.
- Standard 3 establishes requirements for reviewing a real property appraisal and reporting on that review.
- Standards 4 and 5 establish requirements for the development and communication of various real estate or real property consulting functions by an appraiser.
- Standard 6 establishes requirements for the development and reporting of mass appraisals for ad valorem tax purposes or any other universe of properties.
- Standards 7 and 8 establish requirements for developing and communicating personal property appraisals.
- Standards 9 and 10 establish requirements for developing and communicating business appraisals.

USPAP also includes nine Statements on Appraisal Standards which clarify, interpret, explain, or elaborate on a Standards Rule and which have the full weight of a Standards Rule and eighteen Advisory Opinions which are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the Appraisal Standards Board for the resolution of appraisal issues and problems.

2) The Supplemental Standards of Professional Appraisal Practice

The Appraisal Institute has adopted the Supplemental Standards of Professional Appraisal Practice to require specific certification statements that are not a part of USPAP and to notify members and the users of appraisal services that the Appraisal Institute will enforce its own Code of Professional Ethics as the proper means of enforcing the Ethics Rule of USPAP.

3) The Guidenotes to the Standards of Professional Appraisal Practice

The Appraisal Institute has adopted the Guidenotes to Standards of Professional Appraisal Practice to illustrate how the requirements of the Standards should be applied. The Guidenotes should not be considered without referring to the underlying Standards Rules.

RECENT AND PROPOSED CHANGES TO THE STANDARDS AND ETHICS

Recent Changes to the Uniform Standards of Professional Appraisal Practice

The 2000 edition of USPAP includes the following key changes:

- Standards Rule 1-2(f) was modified to identify more specifically the parties associated with the appraiser's scope of work obligations. Specifically, the phrase "third party" was replaced with "the client, an intended user, or the appraiser's peers' in the same or a similar assignment." Standards Rule 2-4 which concerns oral real property appraisal reports was changed to clarify what compliance with the rule means and to permit departure when the appraiser is not able to comply.
- Standard 3 was restructured for better organization, consistency and understandability. Some of the specific changes included clarifying the nature of appraisal review and scope of work obligations and the addition of Standards Rule 3-3 to clarify how the standard applies to oral appraisal review reports.
- The Competency Rule was changed to acknowledge that different kinds of competency, in addition to "geographic" competency, may be necessary in an assignment. These include, but are not limited to, "an appraiser's familiarity with a specific type of property, a market, a geographic area or an analytical method."
- The confidentiality section of the Ethics Rule has been changed to include an appraiser's obligation to "act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of assignment results." The comment in the confidentiality section has been modified to clarify that the section does not apply when confidential elements have been removed through redaction or the process of aggregation. In the definition of confidential information the reference to "publicly available" information was removed and the definition was revised to focus on information received from and identified by the client as being confidential when given to the appraiser.

RECENT CHANGES TO THE CODE OF PROFESSIONAL ETHICS

Reporting of Education Information to the Appraisal Institute. At its December 1999 meeting, the Appraisal Institute's Board of Directors adopted changes to Regulation No. 10. This regulation governs the Appraisal Institute's continuing education program. Under these changes: designated members are now required to maintain and update their own Appraisal Institute continuing

education records relating to qualifying hours of non-Appraisal Institute education; and the Appraisal Institute will randomly review designated members' evidence of completion of such education. To ensure proper reporting of non-Appraisal Institute educational hours, the Board of Directors also adopted Ethical Rule 2-3(f) that states:

- It is unethical for a member to knowingly submit false or misleading education information or documentation to the Appraisal Institute or to fail or refuse to submit promptly any education information or documentation that is or should be in the member's possession or control when requested by the Appraisal Institute.

Violations of this Ethical Rule will result in an automatic expulsion.

Definitions. The Board of Director's adopted changes to the definitions of "appraisal," "assignment," and "report" that appear in the Code of Professional Ethics. These changes were made so that the definitions in the code would be the same as those found in the Uniform Standards of Professional Appraisal Practice. The new definitions are as follows.

- Appraisal: (n.) The act or process of developing an opinion of value; an opinion of value. (adj.) Of or pertaining to appraising and related functions.
- Assignment: (n.) An appraisal, consulting or appraisal review service provided as a consequence of an agreement between an appraiser and a client.
- Report: (n.) Any communication, written or oral, of an appraisal, appraisal review or consulting service that is transmitted to the client upon completion of an assignment.

ENFORCEMENT PROCEDURES

The Appraisal Institute adopted Regulation No. 6 to establish uniform rules governing peer review proceedings. Peer Review Proceedings is defined, in part, as all actions taken pursuant to Regulation No. 6 to determine whether a Member may have violated or did violate the requirements of the Appraisal Institute's Code of Professional Ethics or Standards of Professional Appraisal Practice and to take appropriate remedial or disciplinary measures.

RECENT CHANGES TO REGULATION NO. 6

At its December 1999 meeting, the Appraisal Institute's Board of Directors adopted changes to Regulation No. 6 that will allow the Appraisal Institute to strictly enforce the new Ethical Rule 2-3(f). Under these changes if the Appraisal Institute's Director of Screening determines that a member may have violated Ethical Rule 2-3(f) the director will refer the matter to the chair of the Ethics Administration Division for review. If the chair or vice chair of the Ethics Administration Division then determines that such member violated Ethical Rule 2-3(f) the chair or vice chair will give written notice to such member that he or she will be expelled from membership subject to the right to file an appeal. At any appeal heard concerning a violation of Ethical Rule 2-3(f), submission into evidence will include:

- false or misleading education information or documentation that a Member submitted to the Appraisal Institute; or
- a copy of a request from the Appraisal Institute for any education information or documentation that was or should have been in the member's control, and
- an affidavit from the requesting party at the Appraisal Institute that the member did not promptly submit such requested information or documentation.

This shall constitute prima facie evidence that such member violated Ethical Rule 2-3(f). However, this shall not prevent a member from introducing such evidence as may be appropriate to dispute or explain such failure or refusal to comply. Also, the chair of the Ethics Administration Division shall have the burden of proof to establish, by the greater weight of the evidence, that such accused member did, in fact, violate Ethical Rule 2-3(f).

PROBLEM WITH AN APPRAISER?

The Appraisal Institute has a peer review process through which complaints concerning the association's members are reviewed. If a member is found to have violated the Appraisal Institute's Code of Professional Ethics or Standards of Professional Appraisal Practice, the Member will be counseled, admonished, censured, suspended, expelled, or given an educational course, depending on the seriousness and type of the violation.

Because the Appraisal Institute's peer review proceedings are confidential, you should not expect to hear about the status or results of your referral, although certain types of disciplinary actions are published.

Because the subject matter of referrals covers such a wide spectrum the Appraisal Institute has no standard referral form. Instead, we request that you provide us with a letter containing the following information, if available, to help us process your referral:

1. Name and address of Appraiser
2. Name and address of Client
3. Location of Property (address)
4. Type of property
5. Date of Appraisal Report
6. Purpose of Appraisal Report
7. If testimony was involved, the jurisdictional court, the case number, and the date(s) of the testimony
8. Explanation of the problem.

We also request that you provide us with a copy of the appraisal report and/or any other documentation that will help us review your referral. If a copy of the appraisal report is not available we can request it from the member.

Your referral performs an important service in that through people like yourself, the Appraisal Institute is able to monitor the work of its appraisers and ensure that if their work violates Ethical or Standards rules, the appropriate educational or disciplinary action will be imposed so that the future work of the appraiser will meet the highest ethics and standards in the profession.

Referrals should be sent to Stephanie Coleman, Director of Screening, Appraisal Institute, 3108 Center Court Drive, Modesto, CA, 95355.

If you have a problem with an appraiser who is not a member of the Appraisal Institute you may want to contact your state's appraiser regulatory agency to see if they have jurisdiction.

STATISTICS

2004 ENFORCEMENT DATA

ACTION	#
New Files Opened	211
Educational Letters	106
Educational Alternatives Completed	9
Notice of E.R. 5-2 Violation	33
Admonishments	9
Reprimands	4
Censures	1
Suspensions	2
Expulsions	1

PUBLISHED ACTIONS

At its June 2004 meeting the Appraisal Institute's Board of Directors adopted changes to Regulation No. 6 that will allow for the publication of censures, suspensions and expulsions in both print and electronic media.

At its June 2004 meeting the Ethics and Counseling Committee adopted the following policy concerning the publication of publishable disciplinary actions:

- 1) Publishable disciplinary actions will be published in an official national publication of the Appraisal Institute.
- 2) Publishable disciplinary actions will be published on the Appraisal Institute's website in

the following manner:

- a) Notice of a Censure will remain on the website for one year;
 - b) Notice of a suspension will remain on the website for the length of the suspension or for a minimum of one year, whichever is longer;
 - c) Notice of an expulsion will remain on the website for two years.
- 3) The Chapter of the disciplined member will be notified.

USE OF DESIGNATIONS, EMBLEMS AND LOGO AND REFERENCES TO MEMBERSHIP

It is imperative that the use of the Appraisal Institute's designations, emblems and logos and references to membership not be misleading. Following is a brief summary of the rules.

The membership designations may be used only in conjunction with the name of the individual member to whom the membership designations have been conferred. The membership designations must appear in capital letters and cannot be in type or lettering larger than that of the member's name. The letters in each membership designation must be used without a period or space after each letter. If a member holds multiple membership designations, they cannot be hyphenated.

The emblems may not be displayed in conjunction with a firm or in any manner that might be interpreted as referring to any entity other than the individual member. The emblems may not be used adjacent to a list of names that includes both members and non-members. The emblems may appear only once on each letterhead, correspondence, report cover, business card or advertising used by a member. The emblems must be reproduced in the official colors of burgundy (PMS 202 (c) on coated paper or PMS 187 (U) on uncoated paper) and gold (PMS 873) or black and white unless written authorization is obtained from the Appraisal Institute's national office. Printed emblems must be exact reproductions of the official shields and must be made from camera-ready proofs which are available from the Appraisal Institute's national office.

The terms "Associate Member" and "Affiliate Member" may only be used in conjunction with the name of an individual and not in connection with the name, logo or signature of any firm, partnership or corporation. The terms may not be abbreviated, referred to as designations, nor included under a heading concerning professional designations. The terms can be used on business cards, letterhead and other publications. Associate Members may use the term "general" or "residential" in front of the term Associate Member.

The Appraisal Institute logo may only be used by the Appraisal Institute, its regions and chapters or by any specific license for such use. Individual members may not use the Appraisal Institute logo.

CHAPTER 6
CODE OF ETHICS
FOR ALL REAL ESTATE AGENTS
THE CANADIAN REAL ESTATE ASSOCIATION.

LEARNING OBJECTIVES:

After studying this chapter you will be able to:

1. Explain the real estate agent's duties toward his/her client and customers.
2. Clarify the real estate agent's obligations to society.

The Codes below relate to my Duties to you, Clients and Customers, under the CODE OF ETHICS

1. Under all is the land. Upon its wise utilization and widely allocated ownership depend the survival and growth of free institutions of our civilization.
2. Through the REALTOR the land resource of the nation reaches its highest use and private land ownership its widest distribution. The REALTOR is instrumental in molding the form of his or her community and the living and working conditions of its people.
3. Such functions impose grave social responsibilities which REALTORS can meet only by diligent reparation and considering it a civic duty to dedicate themselves to the fulfillment of the REALTOR's obligation to society.
 - a) The REALTOR therefore must be zealous to maintain, and continually strive to improve, the professional standards of his or her calling;
 - b) By keeping informed as to developments and trends in real estate.
 - c) By endeavoring to protect the public against fraud, misrepresentation or unethical practices in connection with real estate transactions.
 - d) By rendering services and opinions based only on the REALTOR's knowledge, training, qualifications and experience in real estate,
 - e) By seeking no unfair advantage over, nor injuring directly or indirectly the reputation, nor publicly disparaging the business practice of, other REALTORS, and
 - f) By being loyal to the REALTOR's Real Estate Board and Provincial/Territorial

Association and active in their work.

4. In the interpretation of his or her obligations, the REALTOR can take no safer guide than that which has been embodied in the Golden Rule-“Do unto others as you would have them do unto you.”
5. No inducement of profit and no instruction from clients or customers can ever justify departure from the ideals of fair dealing and high integrity resulting from adherence to a lofty standard of oral conduct in business relations.
6. Accepting this standard as his or her own, each REALTOR pledges to observe the spirit of this code in all dealings and to conduct business in accordance with the Standards of Business Practice as adopted by the Canadian Real Estate Association.
7. No Article in the Code of Ethics or Standards of Business Practice or amendment hereto is to become effective until passed by resolution of the Board of Directors and seven (7) days advance publication of such changes in the MLS Notice pages have been given.

GLOSSARY

EFFECTIVE ETHICS: a set of principles, or values, a standard of conduct by which the individual guides his own behavior and judges that of others. It refers to our conduct, socially and in the business, and in attitude toward others.

ETHICS: standards of professional conduct and business practices adhered to by professionals in order to enhance their profession and maximize idealism, justice and fairness when dealing with the public, clients and other members of their profession.

LAWS: bodies of rules governing members of a community, state, organization, professional, etc ... and enforced by authority or compelling legislation.

MORAL: an accepted rule or standard of human behavior.