

Case #1: Agent Recruiting Violations

Fact Pattern: The basis for the decision is the conclusion of the Hearing Panel as to the following summary of the facts:

The complainant submitted a complaint that the Respondent was in violation of Articles 1, 2, 15 & 16 of The Code of Ethics. The complainant stated that the Respondent had held a meeting with the complainant's agent about joining the respondent's company. When the complainant met with their agent, the complainant was told that the respondent gave the agent the following directions: 1) Not to speak to the complainant to let them know the agent was leaving; 2) To get the agent's sellers to sign releases BEFORE meeting with the complainant and 3) the complainant always releases the listings when an agent leaves their firm.

The complainant stated that they rarely, if ever, release a listing when the agent is moving their license to another firm. The complainant stated that they were promised that there would be no future interference with the agent while the complainant was working on sorting through the listings in question. When the complainant requested information about the listings from the agent, the agent sent a text that they could not provide any information to the complainant. The complainant stated that due to the interference they were forced to ultimately release the listings totaling over \$3,000,000.

The respondent replied that Articles 1 & 2 pertain to Duties to Clients and Customers and should be excluded as they do not apply in this situation. The respondent stated that there was no supporting documentation in the complaint that pertains to Article 15.

The respondent stated that while initially there may have been incorrect advice provided to the agent to approach their sellers and have them sign Change forms prior to the agent's resignation from the complainant's firm, as soon as the actions were discovered they were immediately addressed and no further discussion occurred with the sellers in regard to their listing contracts.

The respondent submitted an Optional Waiver of Right to Hearing form.

Conclusions: The Hearing Panel in the above-stated case, found that the Respondents were not in violation of Articles 1 & 2. The Hearing Panel found the Respondents were in violation of the following:

1. Article 15 of the Code of Ethics referencing SOP 15-2 for recklessly making false or misleading statements about the business practices of other REALTORS®;

2. Article 16 of the code of Ethics referencing SOP 16-20 interference with exclusive representation, violators showed knowing disregard of the code's obligation. This violation was considered serious as there was a possible loss of listings due to the interference.

Recommendation for Disciplinary Action:

1. A letter of reprimand, with a copy to be placed in the REALTOR®'S® file;
2. A fine of \$ 5,000;
3. Attendance at an in-person Agency course within the next six (6) months;