

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS® (SIOR)  
Ethics, Mediation & Arbitration Procedures Manual**

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**This manual can be accessed on the SIOR Web Site: [www.sior.com](http://www.sior.com)  
See Resources - SIOR Code of Ethics -Ethics and Professional Standards**

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**  
**Ethics, Mediation & Arbitration Procedures Manual**

**Part I**  
**OVERVIEW OF SIOR'S**  
**PROFESSIONAL STANDARDS PROCESS**

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## **OVERVIEW OF SIOR'S PROFESSIONAL STANDARDS PROCESS**

### **A. Governing Documents**

SIOR's professional standards process is designed to provide for the fair and efficient evaluation of claimed violations of SIOR's *Code of Ethical Principles and Standards of Professional Practice* and the mediation and arbitration of certain financial disputes arising from the real estate-related professional or business activities of Active members or Candidates. The process is grounded in three documents. First, SIOR's Bylaws and Policy Manual establish the basic obligations of Active members and Candidates, authorize sanctions for non-compliance, and establish organizational elements, including the Professional Standards Committee, that have roles in the process. Second, SIOR's *Code of Ethical Principles and Standards of Professional Practice* specifies the substantive rules governing professional conduct and specifies duties to resolve certain financial disputes through mediation or arbitration. Third, this *Ethics, Mediation & Arbitration Procedures Manual* defines specific procedures, policies, and forms used in ethics enforcement and financial dispute resolution.

This manual is organized as follows:

Part I discusses in general terms, SIOR organizational elements that participate in ethics and arbitration proceedings.

Part II describes the procedures and related policies governing proceedings related to claimed violations of ethical obligations.

Part III describes the procedures and related policies governing the mediation or arbitration of financial disputes that are subject to resolution by SIOR.

Part IV provides a set of the forms to be used as a guide in ethics enforcement and financial dispute resolution proceedings.

Finally, for immediate reference by manual users, the *Code of Ethical Principles and Standards of Professional Practice* is included as an Addendum.

Questions concerning this manual or related matters may be addressed to:

Professional Standards Staff Officer  
SIOR Headquarters  
1201 New York Avenue, NW, Suite 350  
Washington, DC 20005  
USA  
Phone 202.449.8200  
Fax 202.216.9325

## **B. Adherents and Duties of Adherents**

As used in this manual, the term "Adherent" means any person who is an Active SIOR designee (i.e., an Active member) or holds Candidate status in SIOR. They are the persons who are subject to SIOR's *Code of Ethical Principles and Standards of Professional Practice*.

The duties of Adherents include, but are not limited to, the following:

- (1) to abide by the *Code of Ethical Principles and Standards of Professional Practice*;
- (2) to submit to mandatory mediation and arbitration all financial disputes specified in *the Code of Ethical Principles and Standards of Professional Practice*, and to abide by arbitration rulings; and
- (3) to abide by the Bylaws of SIOR and the rules and regulations adopted by SIOR's Board of Directors.

## **C. Waiver of Rights of Action**

All SIOR Adherents, for and in consideration of their right and responsibility to invoke mediation and arbitration proceedings and to report potential violations or initiate complaints under the *Code of Ethical Principles and Standards of Professional Practice*, waive any rights of action against SIOR, any SIOR member, Candidate, agent and their counsel, or any other participant arising out of any decisions, determinations, or other actions taken or rendered under these procedures in the absence of willful or wanton misconduct. Further, as a condition of continued SIOR affiliation, every Adherent expressly waives any cause of action for libel, slander, or defamation that might arise from the filing or consideration of any ethics complaint or mediation/arbitration request.

## **D. SIOR Authority to Discipline Adherents**

Pursuant to SIOR's Articles of Incorporation and Bylaws, the power to impose discipline resides in SIOR's Board of Directors, whose exercise of that authority has been delegated in several ways, including to the committee and staff functions described in this manual.

Discipline may be imposed on an Adherent:

- (1) for violation by the Adherent of any duty described above.
- (2) for unethical and/or illegal acts of other Adherents or persons who are not themselves Adherents, in circumstances where the Adherent is engaged in a real estate-related professional or business activity that is conducted by, through, or in conjunction with one or more such persons as employees, agents, subordinates, colleagues, or associates.
- (3) on the Adherent's conviction, judgment plea, or other determination of guilt by a final judgment of any court of competent jurisdiction of a felony or a crime involving moral turpitude.

## E. Nature of Discipline that the Board May Impose

Disciplinary action that SIOR's Board of Directors may impose on Adherents for violation of their above duties may consist of one or more of the following:

- (1) a letter of warning with a copy placed in the Adherent's file;
- (2) a letter of reprimand with a copy placed in the Adherent's file;
- (3) a requirement that the Adherent attend a SIOR course or seminar or a program sponsored by another REALTOR group that addresses ethics and can be reasonably attended taking into consideration cost, location, and duration;
- (4) an appropriate and reasonable fine not to exceed a maximum amount equal to ten times SIOR's annual dues in effect at the time the fine is imposed;
- (5) placing the Adherent on probation for a stated period of time, not less than thirty (30) days nor more than one (1) year in duration;

PROBATION means the discipline recommended will be held in abeyance for a stipulated period of time, which may not exceed one (1) year. Any subsequent finding of a violation of SIOR's Bylaws or Code of Ethical Principles during the probationary period may, at the discretion of SIOR's Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline shall be considered fulfilled, and the record shall reflect the fulfillment;

- (6) suspension of membership or Candidate status for a period not less than thirty (30) days nor more than one (1) year, with automatic reinstatement to good standing at the end of the suspension period;

SUSPENSION of membership means temporary termination of membership rights and privileges and denial of SIOR services and benefits for a period not less than thirty (30) days nor more than one (1) year, on terms and conditions expressly stated for an established period of time, including, but not limited to, use of the SIOR designation. At the expiration of the suspension period, all withdrawn membership rights and privileges will be automatically restored. During the suspension period, membership per se continues and the suspended members remain obligated for payment of membership dues and to abide by SIOR's Bylaws and Code of Ethical Principles. Any failure to abide by the terms and conditions of the suspension, or any subsequent finding of a violation of SIOR's Bylaws or Code of Ethical Principles, shall be grounds for consideration as to possible extension of the suspension or expulsion from membership in SIOR by SIOR's Board of Directors. In lieu of suspension, at the option of the Board, an assessment not to exceed an amount equal to ten times the SIOR's annual dues in effect at the time the assessment is imposed, which assessment may be imposed on a given Adherent only once in any three (3) year period;

- (7) expulsion from membership or Candidate status with no reinstatement opportunity for a specified period of one (1) to three (3) years, with any subsequent readmission to be by application only after the specified period of expulsion, the decision on readmission to be made based on the merits of the application, and to be considered under the admissions standards in effect at the time.

SIOR has adopted criteria limiting imposition of the more serious sanctions, suspension and expulsion. An Adherent may be suspended or expelled where the Hearing Panel finds:

- a. A violation that caused death or significant personal injury; or
- b. A violation that has caused substantial economic injury to the party represented or to any other party to whom a duty of honesty, faith, trust, or fiduciary is owed; or
- c. A violation that has produced governmental criticism or substantial media criticism of the adherent and/or has cast aspersions on the real estate profession or SIOR; or
- d. That the respondent's misconduct involved a violation as equally serious as those addressed by the above three criteria but not literally covered by any one of them; or
- e. That within the 10 years preceding the complaint, the respondent has been found to have violated the Code on two (2) or more separate occasions.

Criteria a. and b. are intended to identify violations that have caused serious harm to individuals or businesses. Criterion c. encompasses certain violations that have adversely affected the reputation of the profession or SIOR. Criterion d. covers violations of equal or greater severity that do not fall literally within the language of any of the first three criteria.

Criterion e. covers the situation where an adherent has been found to have engaged in repeated violations over a 10-year period, indicating a pattern of non-compliance. It is not required that each violation is serious; the emphasis is on repetition. For purposes of this guideline, the violation found by the panel counts as one of the two. Many violative-conduct scenarios involve violations of more than one *Code* Principle or Standard of Practice. This guideline is not triggered by the violation of two Principles or

Standards in a single incident; rather, it applies where there are found (partly by earlier Hearing Panels in most instances) to have been two or more separate incidents involving violations by the respondent.

The Board of Directors may, at its discretion, take all actions at law and equity to enforce discipline imposed on SIOR Adherents.

## **F. Professional Standards Committee**

SIOR's Bylaws and Policy Manual provide for the establishment of a Professional Standards Committee, which consists of a Chair, a Vice Chair, and not more than eighteen members representing geographically diverse areas (including a representative from each of SIOR's regions when possible). Recent experience on a local Grievance or Professional Standards Committee is preferred for appointment to this committee, and other dispute resolution experience (mediation, arbitration, ombudsman) is considered helpful. Familiarity with SIOR's Code of Ethical Principles and Standards of Professional Practice and its enforcement and administrative procedures is required of all members of this committee.

The purposes of the Professional Standards Committee are to investigate, review, and evaluate ethics complaints and arbitration requests, to determine their efficacy and the course required for the appropriate disposition of such matters through Grievance Review Panels which are formed as needed; to provide mediation and arbitration facilities for the resolution of financial and contractual disputes involving members (through mediators and Hearing Panels formed as needed); to conduct hearings for the adjudication of complaints involving allegations of professional misconduct by SIOR members and Candidates through Hearing Panels formed as needed; to evaluate and recommend changes to the Code and its related policies and procedures, to develop case studies and other interpretational aids to illustrate the application of the Code in business and professional circumstances; and to oversee the Ethics Forum, which studies the practical applications of SIOR's Code of Ethical Principles and Standards of Professional Practice, and provides a pool of members who are interested and experienced in professional standards to fulfill SIOR's Grievance Review and Hearing Panel needs.

*A Grievance Review Panel appointed by the Professional Standards Committee Chair will be responsible for reviewing and evaluating written complaints and other reported potential violations of the Code of Ethical Principles and Standards of Professional Practice to determine whether they warrant a professional standards hearing. The Grievance Review Panel refers those cases which it determines warrant hearings to a Hearing Panel to be appointed by the Professional Standards Committee Chair. The Professional Standards Committee itself may draft ethics complaints and refer them for hearing. A Hearing Panel is responsible for adjudicating complaints related to ethics that are referred by a Grievance Review Panel. The Professional Standards Committee Chair may appoint Hearing Panels to hold hearings on claimed violations of under the Code of Ethical Principles and Standards of Professional Practice and render decisions on whether violations occurred. Where one or more violations are found, the Hearing Panel will select appropriate disciplinary action that will be forwarded as a recommendation to the Board of Directors.*

*The Professional Standards Committee also supervises the mediation of financial disputes referred by a Grievance Review Panel for mediation/arbitration review, and where mediation does not lead to an agreed resolution, provides arbitration Hearing Panels. The Professional Standards Committee Chair may designate qualified members of the Committee as mediation officers and may appoint Grievance Review Panels for review of a mediation/arbitration request and arbitration Hearing Panels. A Grievance Review Panel itself does not mediate or arbitrate business disputes. Arbitration Hearing Panels conduct hearings on financial disputes, and render decisions that may include arbitration awards, subject to procedural review by the Board of Directors.*

*Proceedings before a Grievance Review Panel or an ethics or arbitration Hearing Panel will be conducted in accordance with applicable provisions of SIOR's Ethics, Mediation and Arbitration Procedures Manual.*

*No Committee member who has participated in the consideration of a matter by a Grievance Review Panel will participate in the consideration of the same matter as a Hearing Panel member.*

*The Committee develops professional standards policies and procedures applicable to members and/or individuals having Candidate status in SIOR. This function includes developing interpretations and recommendations for changes to the Code of Ethical Principles and Standards of Professional Practice. It also includes developing interpretations and recommendations for changes to the Ethics, Mediation and Arbitration Procedures Manual.*

*The Committee will work with the Education Committee to develop and conduct educational activities related to ethics and arbitration obligations of members and Candidates, as well as related procedures. This function includes development and implementation of educational courses, convention programs, and roundtables.*

In accordance with this charter, a Grievance Review Panel reviews ethics complaints to determine if they are in the proper form and whether, assuming the facts alleged are true, a hearing is warranted. When a complaint is received by the Committee, the Professional Standards Committee Chair will designate specific members of the Professional Standards Committee, totaling not less than three (3) in number, who shall function as the Grievance Review Panel for assessing that complaint. While the Grievance Review Panel has meetings, it does not hold hearings; and it does not decide whether Adherents have violated the Code of Ethics.

Standard of Practice 15.4 obligates all Adherents to report to SIOR potential ethics violations by other Adherents as to which the reporting Adherent has first hand knowledge. When such a report is received, the Professional Standards Committee Chair will designate specific members of the Professional Standards Committee, totaling not less than three (3) in number, who shall function as the Grievance Review Panel for assessment of that report. The Grievance Review Panel reviews and investigates such reports and, in appropriate circumstances, may initiate an ethics enforcement proceeding. Where an ethics enforcement proceeding is commenced based on one or more reports of potential violation, or in response to an investigation requested by the Board of Directors, the Grievance Review Panel will draft a complaint, and a Grievance Review Panel member will act as complainant in subsequent proceedings.

The Professional Standards Committee Chair forms Hearing Panels that hold hearings on claimed violations of the *Code of Ethical Principles and Standards of Professional Practice* and render decisions on whether violations occurred. Where one or more violations are found, the panel selects appropriate disciplinary action, which is then forwarded as a recommendation to the Board of Directors.

Similarly, the Professional Standards Chair supervises the mediation of financial disputes, and where mediation does not lead to an agreed resolution, forms arbitration Hearing Panels. An arbitration Hearing Panel will consist of not fewer than three (3) members of the Professional Standards Committee. Arbitration Hearing Panels conduct hearings on financial disputes and render recommended decisions that may include arbitration awards.

Subject to review by the Board of Directors, panel decisions represent the conclusion of an ethics violation hearing or an arbitration hearing.

## **G. Professional Standards Staff**

SIOR maintains a professional staff that is based at SIOR's Washington Headquarters. SIOR's chief administrative officer is its Executive Vice President, whose responsibilities are defined in the SIOR Bylaws. The staff professionals under the supervision and control of the Executive Vice President include the professional standards staff officer who provides the principal day-to-day staff support for the Board of Directors and the Professional Standards Committee, with respect to ethics enforcement proceedings and financial dispute resolution proceedings. The professional standards staff officer also provides impartial assistance to Adherents and other persons involved in proceedings or otherwise have an interest in SIOR's professional standards program and processes.



**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**  
**Ethics, Mediation & Arbitration Procedures Manual**

**Part II**  
**PROCEDURES FOR THE ENFORCEMENT**  
**OF ETHICS OBLIGATIONS**

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# PROCEDURES FOR THE ENFORCEMENT OF ETHICS OBLIGATIONS

## A. Initiating an Ethics Proceeding by Complaint

Any person having reason to believe that any conduct may be subject to disciplinary action as a violation of SIOR's *Code of Ethical Principles and Standards of Professional Practice* may file a complaint in writing stating the facts on which it is based, using SIOR-PS Form 2 (Ethics Complaint). Copies of key documents relied upon should accompany the complaint. The complaint should be dated, signed, and verified by the complaining person. Complaints should be sent to SIOR's Washington Headquarters to the attention of the professional standards staff officer.

## B. Reports of Potential Ethics Violations

Standard of Practice 15.4 obligates all Adherents to report to SIOR all potential violations of SIOR's *Code of Ethical Principles and Standards of Professional Practice* by other Adherents of which the reporting Adherent has first hand knowledge. Such reports should be made using SIOR-PS Form 2A (Report of Potential Ethics Violation). They should be sent to SIOR's Washington Headquarters to the attention of the professional standards staff officer. SIOR-PS Form 2A should not be submitted where the same Adherent has filed a SIOR-PS Form 2 complaint as to the same conduct by the same Adherent. SIOR-PS Form 2A reports will be handled by the professional standards staff officer and assessed by a Grievance Review Panel in accordance with the procedures stated below for review of ethics complaints.

## C. Timely Filing of Ethics Complaints

Complaints alleging ethical misconduct on the part of an Adherent must be mailed or otherwise transmitted to SIOR within one (1) year of the later of: (a) the date of the closing of a sale from which the matter arises or to which it is related; (b) the commencement date of a lease (or its renewal or extension) from which the matter arises or to which it is related; (c) the rental commencement date of a lease (or its renewal or extension) from which the matter arises or to which it is related; (d) the date on which any litigation arising from or related to the matter is concluded; (e) the date on which any proceeding (arising from or related to the matter) before a licensing or regulatory authority is concluded; or (f) the date on which the matter is known, or could be known, in the exercise of reasonable diligence.

## D. Action By or Involving the Professional Standards Staff Officer

After the earlier to occur of receipt of a Response to Ethics Complaint (SIOR-PS Form 6) or the expiration of the thirty (30) day period following the staff officer's issuance of a Request for Information (SIOR-PS Form 4), the professional standards staff officer will promptly refer any complaint to the Professional Standards Committee Chair, who will supervise assembly of a file to facilitate a Grievance Review Panel determination as to whether to:

- (1) dismiss the complaint as unworthy of further consideration;
- (2) refer it back to the complainant as appropriate for mediation/arbitration rather than disciplinary action; or
- (3) refer it back to the professional standards staff officer with instructions to initiate steps leading to a hearing by Committee members designated by the Professional Standards Committee Chair.

The professional standards staff officer shall, following receipt of an Ethics Complaint (see SIOR-PS Form 2), promptly request a written response from the party complained of (called the respondent) by sending a copy of the complaint to the respondent and requesting the respondent to submit a response (see SIOR-PS Forms 4, "Request for Information," and 6, "Response to Ethics Complaint"). The respondent will be advised that failure to respond to the complaint within thirty (30) days may result in the complaint being forwarded for a hearing and may subject the respondent to a charge of violating the *Code of Ethical Principles and Standards of Professional Practice* for failing to submit pertinent facts to an appropriate body.

Within fifteen (15) days of receipt of a response from the respondent, the professional standards staff officer will provide a copy of the response to the complainant. The staff officer will also provide copies of the complaint and response to the Grievance Review Panel. The Panel may, at its discretion, consider the response in evaluating the ethics complaint.

All parties will be required to sign a Confidentiality Statement (see SIOR-PS Form 23).

### **E. Grievance Review Panel's Review of an Ethics Complaint**

The function of a Grievance Review Panel is to make only such preliminary review and evaluation of a complaint as is required to determine whether the complaint warrants further consideration by a Hearing Panel appointed by the Professional Standards Committee Chair. A Grievance Review Panel does not conduct hearings and does not determine if a violation of the *Code of Ethical Principles and Standards of Professional Practice* has occurred.

#### **(1) Chair's Action upon Receipt of an Ethics Complaint**

Upon receipt of an ethics complaint from the professional standards staff officer, the Professional Standards Committee Chair will review the complaint and any accompanying evidence and/or documentation. The Chair will appoint a Grievance Review Panel consisting of not fewer than three (3) members of the Professional Standards Committee, and may assign a member of the Panel to review the complaint and to make specified inquiries and evaluations. A copy of the complaint will be provided to the assigned member by the professional standards staff officer upon instruction from the Chair.

The reviewer, if appointed, will complete the assignment promptly and prepare a report, which may include a recommendation, for the Grievance Review Panel. After reviewing the report, the Chair will schedule a meeting of the Grievance Review Panel, which may meet by audio or video conference call. The staff officer will provide members of the Grievance Review Panel with copies of the case file, including the reviewer's report, if any, prior to such meeting.

If civil litigation, regulatory proceedings, or administrative proceedings including, without limitation, an ethics complaint filed in another forum related to the same transaction are pending, the Professional Standards Committee Chair will instruct the professional standards staff officer to have SIOR's legal counsel review the complaint and advise if any hearing should proceed (presuming the matter would otherwise warrant a hearing), with counsel to consider:

- (i) the similarity of factors giving rise to the pending litigation or regulatory or administrative proceedings and the ethics complaint;
- (ii) the degree to which resolution of the pending civil litigation or regulatory or administrative proceeding could make consideration of the ethics complaint unnecessary;
- (iii) the degree to which the pending litigation or regulatory or administrative proceeding could delay prompt disposition of the ethics complaint;

- (iv) any relationship between a pending litigation and an Adherent's duty under the *Code of Ethical Principles and Standards of Professional Practice* to arbitrate financial disputes;
- (v) the nature of the alleged violation and the extent to which it could impact on cooperation with either SIOR members or Candidates; and
- (vi) whether consideration of an ethics complaint during the pendency of other proceedings appears likely to be procedurally unfair to the respondent.

Counsel's report will be made part of the case file submitted to the Grievance Review Panel.

## (2) Consideration of an Ethics Complaint by the Grievance Review Panel

In reviewing an ethics complaint, the Grievance Review Panel will consider the following:

- (a) Is the ethics complaint acceptable in form as received by the Panel? If not in proper form, the Panel may request that the staff officer contact the complainant to advise that the complaint must be re-submitted in proper form.

NOTE: If deemed appropriate by the Grievance Review Panel, the professional standards staff officer or a member of the Panel, may be assigned to contact the complainant and provide procedural assistance to amend the complaint or resubmit a new complaint in proper form and with proper content. The person providing such assistance will ensure that only procedural assistance is provided to the complainant and that the complainant understands and agrees that the person is not representing the complainant.

- (b) Was the complaint initially filed within one (1) year of the later of: (i) the date of the closing of a sale from which the matter arises or to which it is related; (ii) the commencement date of a lease (or its renewal or extension) from which the matter arises or to which it is related; (iii) the rental commencement date of a lease (or its renewal or extension) from which the matter arises or to which it is related; (iv) the date on which any litigation arising from or related to the matter is concluded; (v) the date on which any proceeding (arising from or related to the matter) before a licensing or regulatory authority is concluded; or (vi) the date on which the matter is known, or could be known, in the exercise of reasonable diligence?

- (c) Are all necessary parties named in the complaint?

- (d) Is each respondent named in the complaint an Adherent, and was each respondent an Adherent at the time of the alleged offense? SIOR is not authorized to discipline persons who are neither members nor Candidates or to require that non-Adherents participate in its proceedings.

- (e) Is litigation or any government agency investigation or other governmental action pending related to the same transaction?

- (i) If criminal litigation is pending related to the same transaction, the Grievance Review Panel will suspend its consideration and instruct the staff officer to hold the file open until such time as the criminal litigation is concluded and all appellate remedies exhausted.

- (ii) If civil litigation or regulatory or administrative proceedings related to the same transaction are pending, the Grievance Review Panel will consider whether a grievance proceeding should go forward, taking into account the report submitted by SIOR's legal counsel.

- (f) Is there any reason to conclude that SIOR would be unable to provide an impartial Hearing Panel?

(g) Are the specific provisions of the *Code of Ethical Principles and Standards of Professional Practice* cited in the complaint appropriate in light of the facts asserted? Should additional provisions be cited? Are any inappropriate provisions cited?

(h) If the facts alleged in the complaint were taken as true on their face, is it reasonably possible that a violation of the *Code of Ethical Principles and Standards of Professional Practice* occurred?

The Panel may, at its discretion, instruct the professional standards staff officer to obtain additional information from either the Complainant(s) or the Respondent(s), or to obtain clarification about information already provided.

If all relevant questions have been answered to the satisfaction of a majority of the Grievance Review Panel, and if the facts alleged appear to a majority to indicate the reasonable possibility of violation, the Panel will direct the professional standards staff officer to initiate steps leading to a hearing by Professional Standards Committee members designated by the Professional Standards Committee Chair; (ii) Otherwise, the Grievance Review Panel will order dismissal of the complaint and state the basis of that decision.

If a complaint states multiple instances of alleged unethical conduct and the Grievance Review Panel determines that one or more of those instances would not, under any reasonably foreseeable circumstances, constitute a violation, such portion of the complaint may be dismissed while the balance of the complaint is forwarded for a hearing before a Hearing Panel appointed by the Professional Standards Committee Chair. However, the complainant has the right to appeal the partial dismissal to the Board of Directors.

If the Grievance Review Panel concludes that a respondent's alleged conduct may be the basis for a violation of the *Code of Ethical Principles and Standards of Professional Practice* but that an inappropriate provision has been cited, the Panel may amend the complaint by deleting any inappropriate provision(s) and by adding any appropriate provision(s). It may also add or delete individuals as respondents to the complaint. If the complainant disagrees with any amendment to the *Code of Ethical Principles and Standards of Professional Practice* provisions alleged to have been violated or to the deletion of any respondent, the complainant may appeal to the Board of Directors. If the Grievance Review Panel determines that additional provision(s) or additional respondent(s) should be added to the complaint, but the complainant will not agree to pursue the addition, the Grievance Review Panel may file and prosecute its own complaint covering the addition, and both complaints will be heard simultaneously by the same Hearing Panel.

(3) Any action by the Grievance Review Panel dismissing all or part of a complaint as unworthy of further consideration may be appealed by Complainant to the Board of Directors via the professional standards staff officer within twenty (20) days from receipt of the dismissal notice. The SIOR President and Chairman of the Board may appoint a panel of directors to act on behalf of the Board of Directors to consider and decide such an appeal. Any appeal panel so appointed must be composed of at least five (5) directors. Alternatively, the president may direct that the appeal may be heard by the Board's Executive Committee.

Only those materials and information that were available to the Grievance Review Panel when that Panel made its decision will be presented to the Board of Directors and considered with the appeal; and neither the complainant nor the respondent shall have the right to appear before the Board of Directors. If the Board determines that all or part of the complaint was improperly dismissed by the Grievance Review Panel Chair, it will refer that portion of the complaint to the Professional Standards Committee for a hearing. The decision of a Board appeal panel or the Executive Committee is final and binding, and is not subject to appeal or further review by the Board of Directors.

## F. Ethics Hearing Preparations

(1) If not timely received, a Hearing Panel may accept late filing of a response to an ethics complaint at its discretion. Within fifteen (15) days of receipt of a response to the complaint from the respondent, the professional standards staff officer will provide a copy to the complainant. The professional standards staff officer will also provide copies of the complaint and response to the Professional Standards Committee Chair.

(2) The professional standards staff officer will promptly transmit to each of the parties a list of the names of those members of the Professional Standards Committee selected by the Professional Standards Committee Chair as potential Hearing Panel members. No person who has served on the Grievance Review Panel for that complaint may be included. The parties have ten (10) days to challenge any names on the list (using SIOR-PS Form 1A, "Notice of Right to Challenge Hearing Panel Members"). A potential member of a Hearing Panel will be disqualified if she/he is:

- (a) related by blood or other familial relationship to either the complainant or the respondent;
- (b) an employer, partner, or employee directly associated in business with, or affiliated with any person or entity directly associated in business with, either the complainant or the respondent;
- (c) a party to the hearing or a party or a witness in any other pending case involving the complainant or the respondent; or
- (d) in any other relationship or has knowledge which may prevent him/her from rendering an impartial decision.

The Professional Standards Committee Chair will determine the validity of all challenges which are timely raised. The Professional Standards Committee Chair will appoint, from among those names not successfully challenged by either party, three (3) or more members to serve on a panel to hear the complaint. If challenges to Committee members result in there being an insufficient number of Committee members to constitute a panel, the SIOR President may appoint qualified Board of Directors members to serve as panel members. The same challenge procedures and disqualification grounds apply to such directors. All Hearing Panels must be composed of an odd number of members. Each person chosen as a Hearing Panel member will promptly complete and sign a Certificate of Hearing Panel Qualification (SIOR-PS Form 1).

(3) The Professional Standards Committee Chair will select one of the Hearing Panel members to serve as panel Chair. The Chair of the Hearing Panel will designate the time and place of the hearing and the professional standards staff officer will notify the complainant and respondent (on SIOR-PS Form 8, "Official Notice of Ethics Hearing") a minimum of thirty (30) days prior to the scheduled hearing. Because SIOR's membership is spread over wide areas of the world, whenever practical, hearings will be scheduled during or adjacent to regularly scheduled semi-annual SIOR conventions or conferences to minimize travel and time inconvenience for all parties. An appearance at a hearing without objection by a party will constitute a waiver of any defect in a notice of hearing.

The notice of hearing will contain names of members of the Hearing Panel and should be accompanied by an "Outline of Procedure for Ethics or Arbitration Hearings" (SIOR-PS Form 10).

The parties will not discuss the case with any member of the Hearing Panel or the Board of Directors at any time prior to announcement of a decision in the case.

Each party may be accompanied at an ethics hearing by a single non-legal counsel who is an Adherent to the Code or by legal counsel, provided that notice of intention to do so (which notice includes the name of the non-legal or legal counsel) is transmitted to all other parties and to the Hearing Panel at least fifteen (15) days prior to the hearing. Failure to provide timely notice will not invalidate a party's right to counsel but

may result in a continuance of the hearing if the Hearing Panel determines that the other party has been prejudiced by late or lack of notice.

(4) The Hearing Panel Chair will prescribe any specific procedures for the hearing required by the circumstances of a particular case, in a manner not inconsistent with these provisions.

Absent specific prior arrangements, hearings typically are held in rooms such as hotel meeting rooms and are scheduled for less than half of a day. If any party requires unusual physical arrangements or period of time in excess of three hours in order that the party's case may be fully and fairly presented, the party should report such need or request to the professional standards staff officer in writing as soon as possible, so that there will be a reasonable opportunity to assess and, if appropriate, accommodate the request. Decisions on requests for unusual hearing physical arrangements or times will be ruled upon by the panel Chair, in consultation with the professional standards staff officer.

If any party, witness, or counsel involved in the proceeding requires accommodation because of a disability, SIOR will make commercially reasonable efforts to provide such accommodation. Individuals requiring such accommodation must contact the professional standards staff officer at least fifteen (15) days before the hearing.

(5) Once the Grievance Review Panel concludes that a complaint requires a hearing before a Hearing Panel, the complaint may be withdrawn by the complainant only with the Hearing Panel's approval. The approved withdrawal of a complaint is not a determination on its merits.

(6) Amendment of complaints:

(i) At any time prior to the hearing of a complaint, the complainant may file an amended complaint with the professional standards staff officer to clarify or supplement the allegations that are the subject of the hearing (excluding: (a) amendments pertaining to provisions or allegations previously dismissed by the Grievance Review Panel; and (b) any information regarding any circumstance which occurred, as opposed to which was first discovered, subsequent to the circumstance which is the subject of the complaint). If an amended complaint is filed at least thirty (30) days prior to the scheduled hearing, the respondent will be notified, provided a copy, and afforded an opportunity to file an amended response. An amendment filed less than 30 days prior to a hearing may cause the hearing to be postponed so the other party can respond.

(ii) Less than thirty (30) days prior to a hearing, or during a hearing, a complaint may be amended either by the complainant or upon motion of the Hearing Panel. Amendments to include *Code of Ethical Principles and Standards of Professional Practice* provisions or allegations previously dismissed by the Grievance Review Panel may be made only on the motion of the Hearing Panel. In such event, the hearing, with the concurrence of the respondent, may proceed uninterrupted or may be reconvened on a date within two scheduled semi-annual meetings of SIOR from the date of adjournment. If the respondent knowingly waives the right to an adjournment, the record should reflect the fact that the respondent was aware of the right to an adjournment but chose to proceed with the hearing without interruption on the basis of the amended complaint. If the hearing is adjourned to be reconvened at a later date, the amended complaint will be filed in writing, signed by the complainant and by the Hearing Panel Chair, and will be promptly served on the respondent.

(7) After the Official Notice of Ethics Hearing (SIOR-PS Form 8) has been issued, the parties may provide the professional standards staff officer with additional written materials and/or statements to support their

positions. Written affidavits should include **notarized proof of their authorship and execution**. At the hearing, panel members may also receive other written statements, documents, or other papers and will hear testimony from the parties and their witnesses. It is the responsibility of all parties to arrange for their witnesses to be present at hearing. In appropriate circumstances and subject to prior notice to the other parties and the professional standards staff officer, witnesses may participate by telephone or other electronic means. The Hearing Panel may receive and consider any evidence it deems material and proper, including evidence of experts. Non-legal counsel may communicate only with his/her client(s) during a hearing. Each party is responsible for the expenses of their witnesses and counsel.

## **G. Postponement of a Hearing and Failure to Appear**

(1) Postponement may be granted upon request if justified by circumstances. Requests for postponement must be made in writing. Permission can be granted by the Hearing Panel Chair. All parties will be advised of the date of the rescheduled hearing at least sixty (60) days in advance of the rescheduled hearing.

(2) No hearing will be held in the absence of a complainant. In the event that a complainant refuses or is unable to attend a hearing, the complainant will be advised that refusal to participate in a hearing, absent a satisfactory reason, may result in a charge that the complainant has violated an Adherent's obligation to place all pertinent facts before an appropriate Hearing Panel. If a complainant continues to refuse the Hearing Panel's written request to appear, or if the complainant is excused from appearing for reasons deemed valid by the Hearing Panel Chair, the hearing will not take place but rather the complaint will be referred back to the Grievance Review Panel. If the Grievance Review Panel determines that there is sufficient information for a Hearing Panel to consider, the complaint may be amended to name the Grievance Review Panel as complainant, and the hearing shall be continued to a new date. In such cases, the respondent will be provided with a copy of the amended complaint at least thirty (30) days prior to the date of a rescheduled hearing.

(3) If multiple complainants are involved in an ethics hearing, a complainant may testify remotely by telephone or video call for a compelling reason and at the discretion of the Professional Standards Committee Chair as long as at least one complainant is physically present at the hearing.

In the event that a respondent fails to appear at a duly noticed hearing without first obtaining a continuance or adjournment thereof, the Hearing Panel may proceed with the hearing in the respondent's absence and will reach its decision based on the evidence made available at the hearing.

## **H. Conduct of an Ethics Hearing**

An ethics hearing involves a series of procedural steps or events that are coordinated by the Hearing Panel Chair. While each proceeding will present somewhat different circumstances, and the panel Chair will apply the standard procedures so as to accommodate the fair and efficient presentation of the parties' respective cases, the hearing will generally follow the procedural steps outlined in the "Hearing Panel Chair Procedural Guide for Ethics Hearings" which appears as Annex A at the end of this part of the *Manual*. It is essentially a form that the panel Chair uses as a starting point in preparing to direct the hearing. The parties are urged to consider these procedures and present any resulting issues or requests in writing to deviate from the Procedural Guide to the professional standards staff officer well prior to the start of the hearing, so that their resolution will not cause unnecessary delay or inconvenience to other participants.



SIOR will, and any party may at its own expense, have a court reporter or mechanical audio recorder present at a hearing to record the proceedings. If a party records the proceedings and prepares a transcript, that party shall, at its sole expense, provide a copy to the staff officer, who may provide copies thereof to the Hearing Panel and to the other party. A hearing may not be videotaped without the prior written consent of all parties and SIOR.

## **I. Hearing Format**

A Hearing Panel will not be bound by the rules of evidence applicable in courts of law, but will afford all parties a full opportunity to be heard, present witnesses, and offer evidence, subject to the Hearing Panel Chair's judgment as to relevance of the evidence offered.

The general hearing format will be as follows:

- (1) Opening statement by the Hearing Panel Chair, citing the panel's authority to hear the case and explaining the reasons for the hearing.
- (2) The ethics complaint will be read into the record.
- (3) All parties and witnesses will affirm that they will give truthful testimony.
- (4) The parties will be given an opportunity to present documentary evidence and testimony on their behalf, and they may call witnesses. All witnesses will be excused from the hearing except while testifying.
- (5) The parties will be afforded an opportunity to examine and cross-examine all witnesses and parties.
- (6) Panel members may ask questions at any time during the hearing.
- (7) The panel Chair may exclude any questions which the Chair deems irrelevant or argumentative.
- (8) Each party may make a closing statement. The complainant will make the first closing statement and the respondent will make the final closing statement.
- (9) The hearing will be adjourned.
- (10) The Hearing Panel will go into executive session to decide the case.

## **J. Roles of Complainant, Respondent, and Counsel**

A party may be represented in an ethics hearing by a non-legal counsel (an "Advisor"), who must be an Adherent to the Code, or by legal counsel (both are referred to as "counsel"). Only one Advisor per complainant or respondent will be permitted. Parties will be required to respond directly to requests for information or questions addressed to them by members of the Hearing Panel except on the grounds of self-incrimination, or on other grounds deemed by the panel Chair to be appropriate. Parties will be held responsible for the conduct of their counsel. Counsel will be permitted to communicate only through their client during the hearing. Any effort by counsel to harass, intimidate, coerce, or confuse the panel members or any party to the proceedings, or any action by counsel which is viewed by the Hearing Panel as disruptive of the proceedings, will be grounds for exclusion of counsel from the hearing. The decision to exclude counsel for any of the foregoing reasons will be the result of a majority vote of the members of the Hearing Panel and will be non-appealable. In the event counsel is excluded, the hearing will be postponed to a future date to enable the party to obtain alternate counsel, provided, however, that such postponement will not be authorized if it appears to members of the panel that the action of counsel has been undertaken to obtain a postponement or delay of the hearing.

## K. Decision of Hearing Panel

The decision of a Hearing Panel will be determined by a simple majority vote. The panel decision will be stated in writing (on SIOR-PS Form 11, "Ethics Hearing Panel Decision") and will contain findings of fact, findings as to violation of the *Code of Ethical Principles and Standards of Professional Practice* provisions involved, and a description of the recommended disciplinary action(s), if any. If any provision of SIOR's Bylaws, rules, or regulations relative to the Hearing Panel's handling of a matter is involved, the interpretation of the Bylaws, rule, or regulation will be set forth as a separate finding, and the Board of Directors, in any appeal from a decision of a Hearing Panel, will not be bound by the panel's interpretation. Panel decisions will not be disclosed during any appeal, or rehearing, to any persons except the complainant and his/her counsel, if any, the respondent and his/her counsel, if any, SIOR legal counsel, and the professional standards staff officer. However, failure of confidentiality will not invalidate the decision.

The decision will be filed with the professional standards staff officer within ten (10) days after the Hearing Panel's decision is final. A final Hearing Panel decision results when it is in writing and signed by members of the Hearing Panel following their personal review and any review by SIOR's legal counsel which may be requested by the Panel. Any member of a Hearing Panel not voting with the majority may dissent from all or any portion of the findings or decision and may file a dissent in writing with the staff officer for consideration by the Board of Directors at the same time the decision is considered. In the event the respondent is found in violation, the Hearing Panel may, at its discretion, consider all records of previous violations and sanctions imposed, if any, in the Adherent's file in determining discipline recommendations.

The professional standards staff officer will transmit a copy of the decision to the complainant and respondent within five (5) business days after the staff officer receives the written Hearing Panel decision, except that reasonable additional delay will not invalidate the decision.

## L. Parties' Rehearing Rights

Within twenty (20) days after the decision has been transmitted to the parties by the professional standards staff officer, the complainant or the respondent may petition the Hearing Panel for a rehearing as to an adverse decision, solely on the grounds of newly discovered material evidence which the petitioner could not, with reasonable diligence, have discovered and produced at the original hearing. The petition must be in writing and include:

- (1) A summary of the new evidence;
- (2) A statement of what the new evidence is intended to show and how it might affect the Hearing Panel's decision; and
- (3) An explanation of why the petitioner could not have discovered and/or produced the evidence at the time of the original hearing.

Whenever possible, rehearing petitions will be considered by the original Hearing Panel. Rehearing will be granted on majority vote of the panel. When such petition is granted or denied, the professional standards staff officer will immediately inform the respondent and the complainant. **No more than one (1) petition for rehearing may be filed by each party.** Notice of a rehearing will be given not less than sixty (60) days before date of the rehearing.

## **M. Action By the Board of Directors If There Is No Appeal**

(1) If no appeal is filed, the Board of Directors must, subject to the process described below, adopt the Hearing Panel's recommendation and issue its order accordingly, except that the Board, if concerned with a possible procedural deficiency, may on its own motion refer the decision back to the Professional Standards Committee Chair for a new hearing and recommendation by a different Hearing Panel. If, however, the Board does not agree with the recommendation of sanction, the Board may impose alternative discipline that does not exceed that recommended by the Hearing Panel, or may refer the decision back to the original Hearing Panel for further consideration and recommendation accompanied by a description of the Board's concerns regarding the panel's proposed discipline. In such matters, advice of SIOR's legal counsel will be requested and considered. The Executive Committee may act for the Board unless the sanction involves suspension or expulsion from SIOR, which requires full Board action. The action of the Board will be recorded on SIOR-PS Form 12 (Ethics Hearing Action by the Board of Directors).

(2) If the respondent is currently on probation as the result of an earlier proceeding, the Board, upon reviewing the findings and recommendation for discipline resulting from the subsequent hearing, will also determine whether to impose any discipline that was held in abeyance during the probationary period. The Board will determine whether the subsequent ethics violation occurring during the probationary period was minor, inadvertent, or unrelated to the original violation in making their determination.

(3) Any discipline imposed that requires an action on the part of the disciplined Adherent should also indicate any additional disciplines or penalties that may be automatically invoked for failure to comply by a specified compliance date. In the absence of such a provision, failure to comply with the discipline imposed should not be considered grounds for an additional ethics hearing, but rather should constitute the basis for consideration by the Board of Directors with regard to any additional action required to ensure compliance with the original discipline imposed. In the event that additional penalties are contemplated, the party failing to comply with the discipline originally imposed will have an opportunity to appear before the Board of Directors to explain the failure to comply. Absent an explanation acceptable to the Board, additional discipline, including possible suspension or expulsion, may be imposed in a manner consistent with this manual.

(4) Upon final action by the Board of Directors, the professional standards staff officer will disseminate to the complainant, the respondent, the Board of Directors, the Chair and members of the Hearing Panel, SIOR legal counsel, the president of any REALTOR® board or association to which the respondent belongs, and to any governmental agency as directed by the Board of Directors, such notice of the action as the staff officer deems appropriate under the circumstances to effectuate the discipline prescribed, provided that the nature, form, content, and extent of the notice will be specifically approved by SIOR's legal counsel prior to dissemination. SIOR Active members, Associate members, and Candidates, other than those specified in the preceding sentence, will be notified only in respect to a respondent's suspension or expulsion from membership or Candidate status.

## **N. Appeals by Parties to the Board of Directors**

(1) If no petition for rehearing is filed, either party may appeal to the Board of Directors within thirty (30) days after a Hearing Panel's decision has been transmitted to the parties. If rehearing has been sought, appeals must be requested within ten (10) days after denial of a petition for rehearing. An appeal is requested by timely filing with the professional standards staff officer an SIOR-PS Form 18 (Request for

Appeal of an Ethics Hearing Decisionö). An appeal request must be accompanied by a deposit in the amount of \$1,000 (payable to SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®). The appeal request must clearly indicate the bases on which the Hearing Panel's decision and/or recommendation for discipline is being challenged. Appeals may be granted only on the basis of:

- (a) procedural deficiency or error resulting in the appellant being deprived of due process of law;
- (b) misapplication or misinterpretation of a provision of *Code of Ethical Principles and Standards of Professional Practice* found to have been violated; or
- (c) inappropriateness or excessiveness of the discipline recommended by the Hearing Panel.

Only the stated bases and issues raised by the appellant may be considered in any appeal hearing before the Board of Directors. The written request for appeal will be reviewed by the professional standards staff officer only for the purpose of determining whether the appeal states an appropriate basis for consideration by the Board of Directors. If facially insufficient, it will be returned to the appellant, accompanied by an explanation and a request for additional detail to be received within ten (10) days. This initial administrative review is not a decision on the merits of the appeal request but is only intended to ensure compliance with the requirement that an appeal clearly set forth all bases that will be presented to the Board of Directors for its consideration.

(2) When a request for appeal in proper form is received, the professional standards staff officer will immediately send a copy to the other party, and shall notify all parties at least thirty (30) days in advance of the time and place of the appeal hearing. As directed by the SIOR president, the hearing may be before the Executive Committee or a panel composed of not less than five (5) members of the Board of Directors (an "Appeal Panel"). The time set for the Appeal Panel hearing will be a time adjacent to the Board's next regular meeting or at a special meeting called for that purpose. Notice of the appeal hearing will be given using SIOR-PS Form 19 ("Official Notice of Ethics Appeal Hearing"). That form will provide the names of the members of the appeal Hearing Panel and will state the grounds upon which an Appeal Panel member may be disqualified.

That notice will be accompanied by SIOR-PS Form 20 ("Notice of Right to Challenge Hearing Panel Members in an Ethics or Arbitration Appeal Hearing"). A challenge may be submitted, using that form, within ten (10) days after the notice is sent. Anyone who is a party to or testified during the original ethics hearing, was a member of the Grievance Review Panel present during the meeting when this complaint was reviewed, was a member of the original Hearing Panel, or who was otherwise directly involved in the matter prior to the appeal, is disqualified from serving on the Appeal Panel. Furthermore, anyone who is related by blood or other family relationship to any party to the hearing, or who is an employer, partner, employee, or directly associated in business with any of the parties, or affiliated with any person or entity who is directly associated in business with any of the parties, is also disqualified. A party to the appeal may also cite any other ground that may prevent an appeal member from rendering an impartial decision. Challenges will be ruled upon by the SIOR President.

(3) Any party may be represented by legal counsel and each party is requested to provide written notice of an intention to have counsel present at least ten (10) days before the scheduled hearing date. Failure to provide this notice will not invalidate a party's right to legal representation but may result in a continuance of the hearing if the Appeal Panel determines that the rights of any other party require representation by legal counsel.

(4) At the appeal hearing, the Chair of the original Hearing Panel will present a transcript of the case or, if there is no transcript, will summarize the complaint, response, evidence presented, findings made, and discipline recommended. Each party will be entitled to offer corrections to the summary. Each party may present to the Appeal Panel reasons why the Hearing Panel's recommendation should or should not be followed, but no new evidence will be received (except as such new evidence may bear upon a claim of deprivation of procedural fairness). The hearing will be generally organized by and will follow the procedural steps outlined in the "Appeal Panel Chair Procedural Guide for Ethics Appeal Hearings," which appears as Annex B at the end of this part of the manual. It is essentially a form that the panel Chair uses as a starting point in preparing to direct the hearing. The parties are urged to consider these procedures and present any resulting issues or requests in writing to deviate from the procedures to the professional standards staff officer well prior to the start of the hearing, so that their resolution will not cause unnecessary delay or inconvenience to other participants. Issues raised in this manner will be ruled upon by the Appeal Panel Chair.

(5) The Appeal Panel will render its decision promptly, by majority vote. The decision will be documented using SIOR-PS Form 12, "Ethics Hearing Action by the Board of Directors." The Appeal Panel may adopt or modify the recommendation of the Hearing Panel, including the discipline proposed. The Appeal Panel may dismiss the complaint if it concludes the findings of fact do not support the Hearing Panel's conclusion as to unethical conduct. The Appeal Panel may refer the matter back to the Professional Standards Committee Chair for a new hearing and recommendation by a different Hearing Panel if it determines that a procedural deficiency or error did or was likely to have materially influenced the outcome of the Hearing.

If the Appeal Panel is concerned with the appropriateness of the recommendation of sanction, the Appeal Panel may impose alternative discipline that does not exceed that recommended by the Hearing Panel, or may refer the decision back to the original Hearing Panel for further consideration and recommendation accompanied by a description of the Appeal Panel's concerns regarding the proposed discipline. In such matters, the advice of SIOR legal counsel will be requested and considered.

(6) If the recommendation of the Hearing Panel is confirmed, the money deposited by the appellant will pass into SIOR's treasury. If the Hearing Panel's decision or discipline recommendation is rejected, the deposit will be returned to the party who made the deposit. If the recommendation is modified, the appeal panel will determine the disposition of the deposit.

(7) If the recommendation of the Hearing Panel is modified, or if the complaint is dismissed, the Appeal Panel will state its reasons in writing, but failure to do so will not invalidate the decision of the Appeal Panel. Any member of the Appeal Panel not concurring with the decision of the Appeal Panel will be entitled to file a dissenting statement. Under no circumstances may the discipline imposed exceed that recommended by the Hearing Panel.

(8) The decision of the Appeal Panel is final and will not be subject to further review by or appeal to the Board of Directors. Each Active member, Associate member, and Candidate, by applying for or becoming and remaining affiliated with SIOR, agrees not to seek review in any court of law in the absence of willful or wanton misconduct.

## **O. Confidentiality of Ethics Proceedings and Results**

All members of any Hearing Panel will have an obligation to maintain and protect the confidentiality of the proceedings and deliberations of the Hearing Panel before, during, and after its determinations and

recommendations. Hearing Panel members will not discuss Hearing Panel proceedings and deliberations with any person(s) except as required by these procedures or by law.

All other participants in an ethics proceeding also have an obligation to maintain and protect the confidentiality of the proceedings and their results.

Unauthorized disclosure includes any report or publication under any circumstances not established in this manual. The following are circumstances where disclosure by a party to an ethics and/or mediation/arbitration proceeding is authorized:

- (1) Where the dissemination of a decision to individuals who have some knowledge of the proceeding might vindicate an Adherent's professional reputation; or
- (2) Where there is a civil, criminal or administrative proceeding involving the same facts and circumstances which gave rise to the proceedings.

### **P. Withdrawal of an Ethics Complaint**

An ethics complaint may be withdrawn only with the concurrence of the original grievance review panel. Both parties need to submit a request to do so in writing to the Chair of the Professional Standards Committee, who will forward the request to the original grievance review panel in the case for their decision.

### **Q. Resignation of a Respondent before Final Disposition of an Ethics Complaint**

If an ethics respondent resigns or otherwise causes membership or Candidate status in SIOR to terminate after an ethics complaint is filed but before final action is taken by the Board of Directors, the hearing process will suspend and the professional standards staff officer will forward the complaint to any other appropriate REALTOR® board or association in which the respondent continues to maintain membership. If the respondent does not hold membership in a REALTOR® board or association, or if the professional standards staff officer is unable to determine if the respondent holds membership in a REALTOR® board or association, the complaint will be held in abeyance until such time as the respondent rejoins SIOR or it can be determined that the respondent holds membership in another REALTOR® board or association. In any case where a complaint is transferred to another REALTOR® board or association, the complainant and respondent will be so advised in writing.

### **R. Initial Action by the Board of Directors for Failure to Arbitrate or Abide by the Award**

(1) If the complaint against an Adherent is that the Adherent has improperly refused to submit a controversy to mediation/arbitration, the complaint will not be referred to a Grievance Review Panel or a Hearing Panel, but will be brought before the Board of Directors at its next regular meeting or at a special meeting called by the president for that purpose. The procedures for notices, time of notice and hearing prescribed for matters before a Hearing Panel will apply. The sole question for the Board to decide will be whether the respondent has failed to submit an arbitrable matter to mediation/arbitration.

Upon determination that a member has refused to mediate/arbitrate a properly arbitrable matter, the Board of Directors may direct the implementation of an appropriate sanction and may, if it has reason to believe that the imposition of a sanction will become the basis of litigation and a claim for damages consequent to such sanction, delay the effective date of implementing the sanction until final action has been taken on a petition for declaratory relief filed by SIOR to confirm the propriety of its determination and sanction.

(2) On the other hand, if the complaint against the member is that, having properly submitted a controversy to arbitration, the member has refused to abide by the award, such refusal should not be referred to a Grievance Review Panel as a violation of the *Code of Ethical Principles and Standards of Professional Practice* unless it reflects an established pattern or practice of noncompliance with the commitment to arbitrate. A refusal to abide by an award in arbitration should be enforced in the manner set forth in the section of this manual governing arbitration disputes.

### **S. Ethics Case Statistics May Be Published**

SIOR may publish, from time to time, a statistical summary reporting the number of ethics complaints filed, the provisions of *Code of Ethical Principles and Standards of Professional Practice* cited, the number of complaints dismissed by Grievance Review Panels, the number of violations of particular articles, the number of cases resulting in violations, or conversely, no violation, the number of cases in which sanctions were imposed, the range of sanctions imposed, and other appropriate information.

## ANNEX A

### Hearing Panel Chair Procedural Guide for Ethics Hearings

The hearing will start promptly at the appointed time. All parties to the hearing are asked to enter the hearing room.

(Recording by court reporter and/or mechanical recorder begins.)

#### CHAIR'S OPENING STATEMENT:

Ladies and gentlemen, I now call this hearing to order. The Hearing Panel of the Professional Standards Committee is charged with holding hearings for SOCIETY OF INDUSTRIAL AND OFFICE REALTORS® in accordance with the established procedures in matters concerning alleged unethical conduct of SIOR Active members or Candidates, or in the arbitration of financial disputes arising out of the real estate business. The body meeting here is an impartial panel of the Professional Standards Committee that has been selected and called here today to ascertain the truth in the particular matter at hand, which is an ethics proceeding, and to render a decision on the testimony and evidence presented. An ethics proceeding should be recognized as different from an arbitration proceeding. The particular matter to be considered by this panel at this time is an ethics proceeding.

The Professional Standards Committee is a body duly constituted under the authority of the Bylaws of the SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®, and its members have been duly appointed by the SIOR president and approved by the Board of Directors. At this time, I would like to introduce the members of this panel, all of whom are members of the Professional Standards Committee.

My name is \_\_\_\_\_, and I will serve as Chair of this Hearing Panel.

The other members of this panel are: \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, and  
\_\_\_\_\_.

Present at this hearing is \_\_\_\_\_, the complainant, and his/her business associate(s), \_\_\_\_\_.

The complainant is accompanied by a non-legal counsel who is an Adherent to the Code, \_\_\_\_\_, and witnesses who include \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, and  
\_\_\_\_\_.

(If the complainant is accompanied by counsel, confirm that the respondent was notified in advance. If not, ask if there is an objection. If none, have the respondent sign a statement to that effect.)

Also present at this hearing is \_\_\_\_\_, the respondent, and his/her business associate(s), \_\_\_\_\_.



The respondent is accompanied by a non-legal counsel who is an Adherent to the Code, by legal counsel \_\_\_\_\_, and witnesses who include

\_\_\_\_\_, \_\_\_\_\_,  
\_\_\_\_\_, and \_\_\_\_\_.

(If the respondent is represented by counsel, confirm that the complainant was notified in advance. If not, ask if there is an objection. If none, have the complainant sign a statement to that effect.)

SIOR® legal counsel, \_\_\_\_\_, and SIOR® professional standards staff officer, \_\_\_\_\_, are also present today. This proceeding is being electronically recorded. I ask all parties to cooperate by speaking clearly into the microphones so that we have an accurate and complete record of this proceeding.

## BASIS OF THE HEARING

This hearing has been established to consider the complaint of \_\_\_\_\_ against \_\_\_\_\_, alleging violation of \_\_\_\_\_ of SIOR® *Code of Ethical Principles and Standards of Professional Practice*. The complaint as filed by the complainant is as follows:

*(Read the Ethics Complaint, SIOR-PS Form 2, into the record.)*

This panel is not governed by the technical rules of evidence which may apply in a court of law. This panel will seek to determine all ascertainable and relevant facts pertaining to the matter under consideration to arrive at a peer judgment and decision by the panel that is fair to all of the parties. The panel is governed by the Bylaws of the SOCIETY OF INDUSTRIAL AND OFFICE REALTORS® and the *Code of Ethical Principles and Standards of Professional Practice*. It functions in accordance with SIOR® *Ethics, Mediation and Arbitration Procedures Manual*. The panel determines its own rules of evidence and its own specific procedures with objectives of equity and due process.

The following has been generally accepted and ruled on by this panel as to procedures to be followed during this hearing:

1. All parties and their representatives to these proceedings will be allowed full opportunities to be heard on matters relevant to the issue. The panel may rule at any time during the hearing on the relevance of testimony being given or on questions being directed to any party or his/her representative or to witnesses providing testimony. All parties and witnesses will be asked to affirm that testimony given is the truth to the best of their knowledge.

2. *(Read only if one or both parties have counsel present; otherwise, proceed to 3.)*

A party may be accompanied by a single non-legal counsel who is an Adherent to the Code or by legal counsel. However, no party may refuse to respond directly to requests for information or questions addressed to him/her by members of the panel except on grounds of self-incrimination or other grounds which the panel deems appropriate. Counsel is present to advise and consult with his/her client, and will be permitted to communicate only through his/her client during the hearing. This panel will countenance no

effort by any party or by any counsel to any party to harass, intimidate, coerce, or confuse the panel members or any party to the proceedings.

3. The panel may rule at any time on the admissibility of evidence. As Chair, I will act as keeper of the evidence introduced at this hearing and mark each with an exhibit identification number and date.

4. The members of this panel are authorized, individually, to ask questions as they deem pertinent and significant at any time during this hearing. To preserve order, I will rule on questions or testimony by the parties or by witnesses in these proceedings. If deemed necessary, I will consult with the members of this panel and with SIOR legal counsel concerning such rulings.

5. At this time, I request that all persons present in the room who expect to testify at this hearing stand and make appropriate affirmation.

*(Ask each party and witness to stand and affirm.)*

Raise your right hand, and following the question I now pose, answer in the affirmative if you do so affirm:

Do you affirm that the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth?

*(If all parties affirm)* Let the record show that all parties have answered in the affirmative. Please be seated. Witnesses are excused from the hearing at this time until called to provide testimony, and shall be excused after completion of their testimony.

## OUTLINE OF PROCEDURE FOR HEARING

Both the complainant and the respondent were sent a copy of the "Outline of Procedure for Ethics or Arbitration Hearings" (SIOR-PS Form 10). Did each of you receive the Outline? *(If yes)* Let the record show that both the complainant and respondent have stated that they did receive the Outline. *(If no, the party should be given a copy of the Outline and the Chair should determine whether that party has any objections to proceeding.)* Do you have any questions concerning the Outline of Procedure? *(If none)* Let the record show that neither the complainant nor the respondent has any questions concerning the "Outline of Procedure for Ethics or Arbitration Hearings."

We will now proceed with the hearing.

## PRESENTATION BY THE COMPLAINANT

The complainant will now state his/her case and present any evidence or witnesses that he/she may desire.

*(Before each witness is excused)*

## CROSS EXAMINATION BY RESPONDENT

## QUESTIONS FROM PANEL MEMBERS

## PRESENTATION BY THE RESPONDENT

The respondent will now state his/her case and present any evidence or witnesses that he/she may desire.

*(Before each witness is excused)*

## CROSS EXAMINATION BY COMPLAINANT

## QUESTIONS FROM PANEL MEMBERS

## CLOSING STATEMENTS

At this time, both the complainant and the respondent will be given opportunities to make a summary or closing statement if they so desire. The complainant's closing statement will be heard first.

## CLOSING STATEMENT BY THE COMPLAINANT

## CLOSING STATEMENT BY THE RESPONDENT

Does each of you feel that this hearing has been conducted fairly? *(If yes)* Let the record show that both the complainant and the respondent have indicated that they feel this hearing has been conducted fairly. Have each of you had adequate opportunity to testify, present evidence and witnesses, and conduct cross-examination? *(If yes)* Let the record show that both the complainant and the respondent have indicated that they have had the opportunity to testify, present evidence and witnesses, and conduct cross-examination. *(If any party answers "no," ask him/her to explain his/her concern for the record.)*

Before we adjourn the hearing, all persons are advised that the report and findings of the panel are considered confidential. They will be available only to members of this panel, the parties, counsel, and staff as required, and to SIOR's Board of Directors as directed by provisions of the *Ethics, Mediation and Arbitration Procedures Manual*. The parties will be notified of the decision within the required time after this hearing is adjourned.

There being no further business to be considered in this hearing, this portion of the hearing stands adjourned.

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## EXECUTIVE SESSION

*After adjournment, the panel will remain in executive session to deliberate and frame a decision stating its findings of fact, findings as to violation, and recommendation as to discipline, if applicable. The panel will*

*follow the procedure set forth in SIOR's Ethics, Mediation and Arbitration Procedures Manual. The Hearing Panel's decision will be reported using SIOR-PS Form 11, "Ethics Hearing Panel Decision."*

*Disciplinary action that SIOR's Board of Directors may impose on Adherents may consist of one or more of the following:*

- (1) a letter of warning with a copy to be placed in the Adherent's file;*
- (2) a letter of reprimand with a copy to be placed in the Adherent's file;*
- (3) a requirement that the Adherent attend a SIOR course or seminar or a program sponsored by another REALTOR® group that addresses ethics and can be reasonably attended taking into consideration cost, location, and duration;*
- (4) an appropriate and reasonable fine not to exceed a maximum amount equal to ten times SIOR's annual national dues in effect at the time the fine is imposed;*
- (5) placing the Adherent on probation for a stated period of time, not less than thirty (30) days nor more than one (1) year in duration;*
- (6) suspension of Active membership or Candidate status for a period not less than thirty (30) days nor more than one (1) year, with automatic reinstatement to good standing at the end of the suspension period; or, in lieu of suspension, at the option of the Board, an assessment not to exceed an amount equal to ten times SIOR's annual dues in effect at the time the assessment is imposed, which assessment may be imposed on a given Adherent only once in any three (3) year period;*
- (7) expulsion from Active membership or Candidate status with no reinstatement opportunity for a specified period of one (1) to three (3) years, with any subsequent readmission to be by application only after the specified period of expulsion, the decision on readmission to be made based on the merits of the application, considered under the admissions standards in effect at the time.*

*SIOR has adopted criteria limiting when the more serious sanctions, suspension and expulsion may be imposed. An Adherent may be suspended or expelled where the Hearing Panel finds:*

- a) A violation that caused death or significant personal injury; or*
- b) A violation that has caused substantial economic injury to the party represented or to any other party to whom a duty of honesty, faith, trust, or fiduciary is owed; or*
- c) A violation that has produced governmental criticism or substantial media criticism of the adherent and/or has cast aspersions on the real estate profession or SIOR; or*
- d) That the respondent's misconduct involved a violation as egregious as those addressed by the above three criteria but not specifically covered by any one of them; or*
- e) That within the 10 years preceding the complaint, the respondent has been found to have violated the Code on two (2) or more separate occasions.*

*Criterion a) and b) are intended to identify violations that have caused serious harm to individuals or businesses. Criterion c) encompasses certain violations that have adversely affected the reputation of the profession or SIOR. Criterion d) covers violations of equal or greater severity that do not fall specifically within the language of any of the first three criteria.*

*Criterion e) covers the situation where an adherent has been found to have engaged in repeated violations over a 10-year period, indicating a pattern of non-compliance. It is not required that each violation be serious; the emphasis is on repetition. For purposes of this guideline, the violation found by the panel counts as one of the two. Many violative-conduct scenarios involve violations of more than one Code*

*Principle or Standard of Practice. This guideline is not triggered by the violation of two Principles or Standards in a single incident; rather, it applies where there are found (partly by earlier Hearing Panels in most instances) to have been two or more separate incidents involving violations by the respondent.*

**ANNEX B**  
**Appeal Panel Chair Procedural Guide**  
**for Ethics Appeal Hearings**

The hearing will start promptly at the appointed time. All parties to the hearing are asked to enter the hearing room.

**CHAIR'S OPENING STATEMENT:**

Ladies and gentlemen, I now call this hearing to order. *SIOR's Ethics, Mediation and Arbitration Procedures Manual* provides for the right to appeal the decisions rendered by ethics Hearing Panels. An appeal may be granted, and a panel decision set aside, on the basis of (1) misapplication or misinterpretation of a provision of the *Code of Ethical Principles and Standards of Professional Practice*; (2) procedural deficiency or errors resulting in the Respondent being deprived of due process of law; or (3) inappropriateness or excessiveness of the discipline recommended by the Hearing Panel. This particular appeal will be heard by [the Board of Directors, a panel of directors appointed by the President, or *SIOR's* Executive Committee], hereinafter referred to as the Appeal Hearing Panel.

The particular matter to be considered by the Appeal Hearing Panel is an appeal of the decision of an ethics Hearing Panel composed of \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, and  
\_\_\_\_\_, and chaired by \_\_\_\_\_, at an ethics hearing conducted on \_\_\_\_\_. The basis of the original ethics hearing was a complaint brought by \_\_\_\_\_, the complainant(s), against \_\_\_\_\_, the respondent(s), alleging violation of \_\_\_\_\_ of the *Code of Ethical Principles and Standards of Professional Practice*. The decision was as follows:

(Read the Ethics Hearing Panel Decision, *SIOR-PS Form 11*, into the record.)

Prior to the original ethics hearing, the complaint was reviewed by *SIOR's* Grievance Review Panel and referred to *SIOR's* Professional Standards Committee for a hearing.

The appeal Hearing Panel present here today is a body duly constituted under the authority of the Bylaws of the SOCIETY OF INDUSTRIAL AND OFFICE REALTORS® and *SIOR's Ethics, Mediation and Arbitration Procedures Manual*.

At this time, I would like to introduce the members of this Appeal Hearing Panel.

My name is \_\_\_\_\_, and I will serve as Chair of this Appeal Hearing Panel.

The other members of this panel are: \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, and  
\_\_\_\_\_.

Anyone who was a party to the original ethics hearing, a member of the Grievance Review Panel that reviewed this complaint, a member of the original Hearing Panel, or who was otherwise directly involved in this matter prior to the appeal, is disqualified from serving on the Appeal Hearing Panel. Furthermore, anyone who is related by blood or other family relationship to any party to the hearing, or who is an employer, partner, employee, directly associated in business with any of the parties, or affiliated with any person or entity who is directly associated in business with any of the parties, is also disqualified. A potential member of an Appeal Hearing Panel also will be disqualified if she/he is a party to the hearing or a party or a witness in any other pending case involving the complainant or the respondent, or in any other similar relationship or has knowledge which may prevent him/her from rendering an impartial decision. I will now ask the members of the Appeal Hearing Panel if they know of any reason why they should be disqualified. *(If none)*: Let the record show that the members of the Appeal Hearing Panel have not indicated any reason why they are not qualified to serve. Although the parties have been previously notified of their right to challenge members of this Appeal Hearing Panel, I will now ask the parties if they are aware of any reason why any member of this Appeal Hearing Panel is not qualified to serve. *(If none)* Let the record show that the parties have not indicated any reason why any member of this Appeal Hearing Panel is not qualified to serve.

Present at this appeal hearing are \_\_\_\_\_, the complainant(s) in the original ethics hearing and his/her counsel *(if any)* \_\_\_\_\_;  
\_\_\_\_\_, the respondent in the original ethics hearing and his/her counsel *(if any)* \_\_\_\_\_; the original ethics hearing Chair, \_\_\_\_\_; SIOR's legal counsel, \_\_\_\_\_; and SIOR's professional standards staff officer, \_\_\_\_\_.

## APPEAL LIMITATIONS

In this appeal hearing we will consider the arguments of \_\_\_\_\_, hereinafter referred to as the appellant, who filed a Request for Appeal. The appeal is further limited to the basis set forth, in writing, in the Request for Appeal, which is as follows:

(Read the Request for Appeal of an Ethics Hearing Decision, SIOR-PS Form 18, into the record.)

## GUIDELINES

The Appeal Hearing Panel is not governed by the technical rules of evidence which may apply in courts of law. This Appeal Hearing Panel will seek to determine all ascertainable and relevant facts pertaining to the matter under consideration to arrive at a peer judgment and decision by the Appeal Hearing Panel that is fair to all of the parties. All parties or their representatives to these proceedings will be allowed a full opportunity to be heard on matters relevant to the issue. The Appeal Hearing panel may rule at any time during the appeal hearing on the relevance of testimony being given. All parties giving testimony will be asked to affirm that their testimony is the truth to the best of their knowledge. A party may be represented by legal counsel. The Appeal Hearing Panel need not accept the statements of counsel as being the statements of their clients if this Appeal Hearing Panel desires direct testimony. Counsel is present to advise and consult

with their clients, and to speak for them, subject to appropriate rulings or determinations by the Appeal Hearing Panel. This Appeal Hearing Panel will countenance no effort by any party or by counsel to any party to harass, intimidate, coerce, or confuse the Appeal Hearing Panel or any party to the proceedings. After the Appeal Hearing Panel has heard all of the evidence and testimony, we will go into executive session to render our decision, by majority vote. The decision will be based solely upon the arguments, evidence, and testimony offered during this appeal hearing.

## OUTLINE OF PROCEDURE

At this time, I would like to explain the order of proceedings for this appeal hearing. First, the original ethics Hearing Panel Chair (*or another representative from the original panel*) will summarize the case (*or provide copies of transcripts*). Then, the appellant will have an opportunity to offer any corrections or modifications to the summary (*or transcripts*), to introduce supporting evidence and/or the statements of any other parties to the original ethics hearing, and to explain the basis for the appeal. Next, the original Hearing Panel Chair and/or other parties to the original ethics hearing will have an opportunity to explain why the original ethics Hearing Panel's decision should be upheld. At any time during this proceeding, members of the Appeal Hearing Panel may ask questions. Finally, following the appeal hearing, the Appeal Hearing Panel will go into executive session to render a decision. Do any of the parties have any questions regarding the outline of the procedure? (*If none*) Let the record show that none of the parties has any questions regarding the outline of the procedure.

(Ask each party and witness to affirm.)

Raise your right hand, and following the question I now pose, answer in the affirmative if you do so affirm:

Do you affirm that the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth?

(*If all parties affirm*) Let the record show that all parties have answered in the affirmative. Please be seated.

## APPEAL HEARING

We shall now proceed with the appeal hearing.

### PRESENTATION BY THE ORIGINAL ETHICS HEARING PANEL CHAIR

At this time, the original ethics Hearing Panel Chair will summarize the *case (or provide copies of transcripts)*.

### PRESENTATION BY THE APPELLANT

At this time, the appellant may offer any corrections or modifications to the original ethics Hearing Panel Chair's summary, introduce supporting evidence and/or the statements of any other parties to the original ethics hearing, and explain the basis for this appeal.

### REBUTTAL BY THE ORIGINAL ETHICS HEARING CHAIR



At this time the original ethics hearing Chair will have an opportunity to explain why the original ethics Hearing Panel's decision should be upheld by this Appeal Hearing Panel.

## TESTIMONY OF THE OTHER PARTIES TO THE ORIGINAL ETHICS HEARING

At this time, any other parties to the original ethics hearing will have an opportunity to address whether the decision of the ethics Hearing Panel should be upheld by the Appeal Hearing Panel. Any party testifying must restrict his/her discussion to the issues raised in the appeal.

## CONFIRMATION OF FAIRNESS/OPPORTUNITY TO TESTIFY

Does each of you feel that this hearing has been conducted fairly? *(If yes)* Let the record show that all parties to this appeal indicated that they feel this appeal hearing has been conducted fairly. Have each of you had adequate opportunity to state why you believe that the decision of the original ethics Hearing Panel should or should not be upheld by this Appeal Hearing Panel? *(If yes)* Let the record show that both the complainant and the respondent have indicated that they have had the opportunity to state why they believe that the decision of the original ethics Hearing Panel should or should not be upheld by this Appeal Hearing Panel. *(If any party answers "no," ask him/her to explain his/her concern for the record.)*

## CLOSING STATEMENT

The decision of this appeal Hearing Panel is final. Before we adjourn this appeal hearing, all persons present are advised that the report and findings of this Appeal Hearing Panel are considered confidential. Upon final action by this Appeal Hearing Panel, the SIOR president will disseminate to the complainant and the respondent in the original ethics hearing, the Board of Directors, the Chair and members of the original ethics Hearing Panel, SIOR legal counsel, and any governmental agency or real estate professional organization, as directed by the Board of Directors, such notice as the president deems appropriate under the circumstances to effectuate any discipline prescribed, provided, however, that the nature, form, content, and extent of the notice will be specifically approved by SIOR legal counsel prior to dissemination.

There being no further business to be considered in this appeal hearing, this hearing stands adjourned.

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## EXECUTIVE SESSION

*After adjournment, the Appeal Hearing Panel will enter executive session to examine the issues raised on appeal. The Appeal Hearing Panel may adopt or modify the recommendation of the original Hearing Panel, including the discipline imposed, or, alternatively, the Appeal Hearing Panel may dismiss the complaint if it concludes that the findings of fact do not support the original Hearing Panel's conclusion as to unethical conduct. If the Appeal Hearing Panel is concerned with a possible procedural deficiency or error, it may refer the case back to the Professional Standards Committee Chair for a new hearing before a different ethics Hearing Panel. If the Appeal Hearing Panel is concerned with the appropriateness of the recommendation for discipline, it may impose alternative discipline that does not exceed that discipline recommended by the original ethics Hearing Panel or, alternatively, the Appeal Hearing Panel may refer the decision back to the original ethics Hearing Panel for further consideration. If the matter is referred back to the original ethics Hearing Panel for further consideration, it should be accompanied by the Appeal Hearing Panel's concerns regarding the proposed discipline. However, while the Appeal Hearing Panel may recommend that the discipline be increased, the original ethics Hearing Panel is not required to increase the*

*discipline beyond that originally recommended. The Appeal Hearing Panel's decision will be reported using SIOR-PS Form 12, "Ethics Hearing Action by the Board of Directors."*

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**  
**Ethics, Mediation & Arbitration Procedures Manual**

**Part III**  
**MEDIATION AND ARBITRATION OF FINANCIAL DISPUTES**

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## MEDIATION AND ARBITRATION OF FINANCIAL DISPUTES

### **A. Duty to Mediate/Arbitrate**

Principle 16 of the *Code of Ethical Standards and Principles of Professional Practice* calls for mandatory mediation and arbitration of financial disputes when they involve SIOR Adherents from different firms. (See Standard of Practice 16.1.) An arbitration decision is binding on the parties. Under Principle 16, all affected parties may otherwise agree to a voluntary settlement of their dispute, and settlement is encouraged. The mediation and arbitration process will be conducted in accordance with the procedures and policies set forth in this manual.

### **B. Manner of Invoking Mediation/Arbitration**

Any person authorized by Principle 16 of the *Code of Ethical Standards and Principles of Professional Practice* may request mediation and/or arbitration by SIOR, provided that such person had not previously initiated litigation concerning the controversy and amounts in dispute, regardless of the pendency or, if already adjudicated, the outcome, of any such litigation.

Mediation is the required first step in dispute resolution, which is invoked by filing a Mediation/Arbitration Request (SIOR-PS Form 3). This form must be signed by the complainant, must indicate the nature of the controversy and the amount in dispute, and must be accompanied by the required filing fee, currently \$2,500. An additional \$2,500 filing fee will be imposed if mediation fails and arbitration is required. (Where one or more parties from the same firm are involved in more than one related request for arbitration, and the claims are consolidated and resolved in a single hearing, no more than one fee will be required of those parties. When more than one claimant is involved in a request for mediation/arbitration, which results in one of the claimantø filing a separate arbitration petition to determine the distribution of the disputed funds, any claimant making no claim to the funds shall notbe assessed an arbitration filing fee.)

SIOR Adherentsøclients or non-SIOR member real estate professionals involved in a dispute with a SIOR Adherent may also request mediation/arbitration within SIORø system, provided that they agree to be bound by an arbitration decision. SIOR Adherents may also invoke mediation/arbitration against clients or non-member real estate professionals, but no mediation or arbitration may be held without the client or non-memberø voluntary agreement to mediate/arbitrate and be bound by an arbitration decision. (See Standards of Practice 16.2. and 16.3.)

### **C. Timely Filing of Mediation and Arbitration Requests**

Requests for the mediation/arbitration of financial disputes in which an Adherent is involved must be filed within one (1) year of the later of: (a) the date of the closing of a sale from which the matter arises or to which it is related; (b) the commencement date of a lease (or its renewal or extension) from which the matter arises or to which it is related; (c) the rental commencement date of a lease (or its renewal or extension) from which the matter arises or to which it is related; or (d) the date on which the basis of the dispute is known, or could be known, in the exercise of reasonable diligence.

### **D. Review of a Mediation/Arbitration Request**

Upon receipt of a completed Mediation/Arbitration Request (SIOR-PS Form 3), the professional standards staff officer will promptly refer the request to the Professional Standards Committee Chair, who will supervise assembly of a file to facilitate a Grievance Review Panel.

The professional standards staff officer shall promptly request a written response from the party complained of (called the "Respondent") by sending a copy of the complaint to the respondent and requesting the respondent to submit a response (see SIOR-PS Forms 5, "Request for Information," and 7, "Response to Request for Mediation/Arbitration"). The respondent will be advised that failure to respond to the complaint within thirty (30) days may result in the complaint being forwarded for a hearing and may subject the respondent to a charge of violating the *Code of Ethical Principles and Standards of Professional Practice* for failing to submit pertinent facts to an appropriate body. If no response is filed within the time allotted, a Grievance Review Panel will be formed to make a determination as to whether arbitration is appropriate and whether a hearing should be scheduled based upon the information set forth in the request.

Within fifteen (15) days of receipt of a response from the respondent, the professional standards staff officer will provide a copy of the response to the complainant.

A Grievance Review Panel will be appointed by the Professional Standards Committee Chair which shall consist of not fewer than three (3) members of the Professional Standards Committee. The function of the Grievance Review Panel is to make only such preliminary investigation and evaluation of a request as required to determine whether the matter is properly subject to mediation/arbitration and whether the proper parties are named in the request. The Grievance Review Panel does not hold hearings and does not determine entitlement to awards.

(1) Initial Action for Mediation/Arbitration Review

The Professional Standards Committee Chair will schedule a meeting of the Grievance Review Panel, which may meet by conference call. The professional standards staff officer will provide members of the Grievance Review Panel with copies of the case file, including copies of the complaint and the reviewer's reports, if any, prior to the meeting. The Grievance Review Panel may, at the discretion of the Chair, also be provided with a copy of the response to consider it for purposes of evaluating the request.

(2) Consideration of a Mediation/Arbitration Request by the Grievance Review Panel

In reviewing a mediation/ arbitration request, the Grievance Review Panel will consider the following:

(a) Is the request acceptable in the form as received by the Panel?

If not in proper form, the Grievance Review Panel may request that the professional standards staff officer contact the complainant to advise that the request must be submitted in proper form.

Note: If deemed appropriate, a member of the Grievance Review Panel may be assigned to contact the complainant and provide procedural assistance to amend the request or resubmit a new request in proper form and with proper content. The Grievance Review Panel member providing such assistance will ensure that only procedural assistance is provided to the complainant and that the complainant understands that the member is not representing the complainant.

(b) Are all necessary parties named in the request for mediation/arbitration?

(c) Was the request for mediation/arbitration filed within one (1) year of the later of: (i) the date of the closing of a sale from which the matter arises or to which it is related; (ii) the commencement date of a lease (or its renewal or extension) from which the matter arises or to which it is related; (iii) the rental commencement date of a lease (or its renewal or extension) from which the matter arises or to which it is related; or (iv) the date on which the basis of the dispute is known, or could be known, in the exercise of reasonable diligence?

- (d) Are the parties entitled to invoke mediation/arbitration through SIOR's facilities? Were the parties so entitled at the time the facts giving rise to the dispute occurred?
- (e) Is litigation pending, or has litigation been finally adjudicated, in connection with the same transaction?

Note: No mediation or arbitration will be provided on matters in pending litigation unless the court refers the matter to SIOR for mediation/arbitration. Adherents have a duty under Principle 16 of the *Code of Ethical Standards and Principles of Professional Practice* not to litigate matters that they should mediate/arbitrate.

- (f) Is there any reason to conclude that SIOR would be unable to provide an impartial Hearing Panel?
- (g) If the facts alleged in the request for mediation/arbitration were taken as true on their face, is the matter at issue a financial dispute related to a real estate-related professional or business activity, and is it properly subject to mediation/arbitration, e.g., is there some basis on which an arbitration award could be based?
- (h) If an arbitrable issue exists, are the parties required to arbitrate or is their participation voluntary? Where participation is voluntary, have those parties agreed to in writing be bound by the arbitration outcome or award?
- (i) Is the amount in dispute too small for SIOR to mediate/arbitrate?
- (j) Is the matter too legally complex, involving central issues that the mediator/arbitrators may not be able to address in a knowledgeable way?
- (k) Are there a sufficient number of knowledgeable mediators/arbitrators available?

If all of the relevant questions have been considered, and a majority of the Grievance Review Panel concludes that the matter is properly subject to mediation/arbitration by SIOR, the Grievance Review Panel will send the request to the Professional Standards Committee Chair for initiation of mediation procedures.

### (3) Appeals from the Decision of the Grievance Review Panel Related to a Mediation/Arbitration Request

If the Grievance Review Panel determines that a matter should not be mediated/arbitrated by SIOR due to the parties to the dispute, the amount involved, the legal complexity, or for any other reason specified in the Grievance Review Panel decision, either of the parties may appeal the decision to the Board of Directors within twenty (20) days of the date of notice of the Grievance Review Panel decision.

Only those materials which were presented to the Grievance Review Panel when the Grievance Review Panel made its decision will be presented to the Board of Directors and considered with the appeal. The parties to the arbitration (complainant and respondent) do not have the right to appear at the appeal hearing before the Board of Directors. The SIOR President may appoint a panel of directors, acting on behalf of the Board of Directors, to hear the appeal. Any appeal panel so appointed must be composed of at least five (5) directors. Alternatively, the appeal may be heard by SIOR's Executive Committee. The decision of the appeal panel or Executive Committee is final and not subject to further review by the Board of Directors.

- (4) If the Grievance Review Panel finds the matter properly subject to mediation/arbitration, the Chair will contact both the complainant(s) and the respondent(s) within five (5) business days of receipt of the Grievance Review Panel's findings to implement mediation procedures.
- (5) In the case of a dismissed request, the deposit will be returned to the complainant.

## **E. Mediation by SIOR of Arbitrable Disputes**

A completed SIOR-PS Form 7 agreeing to mediate and arbitrate must be accompanied by a \$2,500 fee to help cover mediator expenses. The filing fee of \$2,500 shall be used for expenses incurred in the mediation process. If the costs of mediation are less than the filing fees, the excess funds shall be placed in an escrow account for use to cover costs of other mediation services. If the costs exceed the filing fees for mediation there will be no claim by SIOR for additional fees, and any available escrow funds will be used to offset the additional costs.

If mediation fails to resolve the dispute, the matter will be handled through arbitration procedures and both parties to the dispute will be assessed an additional \$2,500 fee to help cover arbitration expenses.

The professional standards staff officer will send each party a SIOR-PS Form 17, "Mediation Officer Selection Form," on which will be listed the names of several potential mediators identified by the Professional Standards Committee Chair. Each party will be requested to return that form indicating whether the listed persons are acceptable or not acceptable. A mediation officer will be designated by the Professional Standards Committee Chair from among the listed persons shown as acceptable to all parties. Whenever possible, mediation officers will be designated from Active members who have substantial training and/or experience in matters relevant to the mediation in question. The parties will be notified by the professional standards staff officer, using SIOR-PS Form 17A, "Mediation Officer Selection Notice," as to the identity of the mediation officer that is appointed by the Professional Standards Committee Chair. The parties will then be contacted by the mediation officer to arrange a mediation conference which may be in the form of a meeting or a teleconference. Every effort will be made to ensure that the time and conference arrangements are convenient for all the parties.

The mediation officer will attempt to resolve the dispute prior to its referral to an arbitration panel. No party to an arbitrable matter is required to agree to be bound by any determination reached through mediation. Mediation is not intended to be a substitute for the arbitration procedures described in this manual. Mediation is required as a service to SIOR Adherents and other parties to resolve business financial disputes.

Although mediation is not binding upon the parties, the need for procedural fairness remains. There generally is no need for the parties to be represented by legal counsel; however, parties to the mediation may be accompanied by and represented by legal counsel. Parties intending to have legal counsel present at the mediation conference should so advise the mediation officer or the professional standards staff officer and the other parties at least ten (10) days prior to the conference.

No aspect of a mediation conference may be relied upon or introduced as evidence in any arbitration, judicial, or other proceeding, including but not limited to views expressed or suggestions made by the parties with respect to possible settlement of the dispute, admissions made in the course of the mediation, proposals made or views expressed by the mediation officer, or the responses of any party to any of the aforementioned. No privilege will be affected by disclosures made in the course of mediation. No records, reports, or other documents received or prepared by the mediator will be released to anyone after the

mediation is completed. Neither SIOR nor the mediation officer may be compelled to disclose or testify in any proceeding as to information disclosed or representations made in the course of the mediation or confidential communication to the mediation officer.

If a mediated resolution of a dispute is reached, each party will be asked to sign a Mediation Resolution Agreement (SIOR-PS Form 16) as drawn by the mediation officer. If one or both parties fail to sign the Mediation Resolution Agreement and return it to the mediation officer within the time specified by the mediation officer, or if the mediation officer determines that mediation will not successfully resolve the dispute, the matter will be referred to the Professional Standards Committee Chair to be scheduled for an arbitration hearing. The SIOR Member who serves as the mediator may not serve on the arbitration panel.

Experience has shown that the vast majority of business disputes resolved within REALTOR®-related organizations can be settled at the mediation stage. Most parties prefer to settle their disputes via mediation, as they maintain control of the process throughout and any settlement that is reached is voluntary in nature, and is reached by agreement of both parties.. By contrast, in an arbitration hearing, the Hearing Panel controls the proceedings and determines the settlement.

## **F. Arbitration Hearing Preparations**

(1) If mediation is unsuccessful, the professional standards staff officer will send to each of the parties a list of members of the Professional Standards Committee for the purpose of determining whether the parties wish to challenge one or more of those persons serving on a panel arbitrating their dispute. Challenges may be filed within ten (10) days using SIOR-PS Form 1A (Notice of Right to Challenge Hearing Panel Members). A person will automatically be disqualified as a member of a Hearing Panel in any proceeding in which the person is (a) related by blood or other familial relationship to a party; or (b) an employer, partner, employee, or directly associated in business with a party, or affiliated with any person or entity who is directly associated in business with a party; (c) a party to the hearing, or a party or a witness in any other pending case involving a party to the hearing; or (d) involved in any other relationship or has knowledge which may prevent him/her from rendering an impartial decision. Other grounds for disqualification may also be asserted and will be considered in light of their nature and the supporting evidence offered. Challenges will be determined by the Professional Standards Committee Chair.

The Professional Standards Committee Chair will appoint, from the names not successfully challenged by either party, three (3) or more arbitrators who will hear the dispute. The Chair will also select one of the panel members to serve as Chair of the Hearing Panel. Any Hearing Panel must have an odd number of members. No person who has been a member of the Grievance Review Panel on the arbitration may be appointed to the Hearing Panel. It is a membership duty of anyone so appointed to serve as an arbitrator unless disqualified. Parties will be deemed to have waived all objections to any potential panelist whom they do not challenge. If challenges to members of the Professional Standards Committee result in there being an insufficient number of members to constitute a panel, SIOR's president may appoint other qualified SIOR members to serve as panel members. No arbitration may proceed without three (3) or more arbitrators. Each person chosen as a Hearing Panel member will promptly complete and sign a Certificate of Hearing Panel Qualification (SIOR-PS Form 1).

(2) The professional standards staff officer will inform the parties of the date, time, and place of the hearing established by the arbitrators or the Professional Standards Committee Chair (on SIOR-PS Form 9, Official Notice of Arbitration Hearing). The parties will be given at least thirty (30) days prior notice of the scheduled hearing, but appearance at a hearing without objection by a party will constitute a waiver of any defective notice of the hearing. Hearing procedure guidelines (SIOR-PS Form 10, Outline of Procedure for Ethics or Arbitration Hearings) and Arbitration Guidelines (SIOR-PS Form 14) will accompany the



notice of hearing to the parties. The arbitration request and response, as well as supporting materials, will be provided to Hearing Panel members at least ten (10) business days prior to the scheduled hearing. The arbitrators may recess the hearing from time to time as necessary and, on request of a party or upon the arbitrators' own motion, may postpone the hearing until the next semi-annual meeting or such other date as is agreed to by the parties.

(3) Upon notice by the staff officer, the parties to the dispute will, with diligence, present in writing for use by the arbitrators such statements and proof as they deem appropriate to support their claims or positions. Proof may be submitted in the form of affidavits or otherwise. The arbitration Hearing Panel Chair may require that statements be verified by affidavits or that accuracy or authenticity of any documents or other papers submitted be verified by sworn affidavit. At the hearing, the arbitrators will receive any further written statements, documents, or other papers, will hear oral testimony, and will determine what personal appearances will be made by the parties and regulate the holding of hearings. The Hearing Panel may receive and consider any evidence it deems material and proper, including evidence of accountants and other experts. Each party is responsible for the expenses of witnesses it calls. Parties to arbitrations are entitled to have legal counsel present at any hearing. Each party is responsible for the expenses of its own respective counsel.

If any party, witness, or counsel involved in the proceedings requires accommodation because of a disability, SIOR will make reasonable efforts to provide such accommodation. Individuals requiring such accommodation must contact the professional standards staff officer at least fifteen (15) days before the hearing.

### **G. Postponement of a Hearing**

Postponement may be granted if there are extenuating circumstances. Requests for postponement must be made in writing to the Hearing Panel Chair or the professional standards staff officer. Postponement requests can be granted by the Hearing Panel Chair. All parties will be advised of the date of the rescheduled hearing at least ten (10) days in advance of the rescheduled hearing.

### **H. Conduct of an Arbitration Hearing**

An arbitration hearing involves a series of procedural steps or events that are coordinated by the Hearing Panel Chair. While each proceeding will present somewhat different circumstances, the Hearing Panel Chair will apply the standard procedures in a manner to accommodate the fair and efficient presentation of the parties' respective cases. In most cases, the hearing will generally follow the procedural steps outlined in the "Hearing Panel Chair Procedural Guide for Arbitration Hearings," which appears as Annex A at the end of this part of the manual. It is essentially a form that the panel Chair uses as a starting point in preparing to direct the hearing. The parties are urged to consider these procedures and present any resulting issues or requests in writing to the professional standards staff officer well prior to the start of the hearing, so that the resolution of these issues will not cause unnecessary delay or inconvenience to other participants.

SIOR will, and any party may at its own expense, have a court reporter present at hearings, or may record hearings. If a party prepares a transcript, that party must provide a copy to the professional standards staff officer, who may provide a copy thereof to all other parties.

## **I. Hearing Format**

An arbitration Hearing Panel will not be bound by the rules of evidence applicable in courts of law, but will afford all parties a reasonably full opportunity to be heard, present witnesses, and offer evidence.

The arbitration hearing procedure will follow these general guidelines:

- (1) Opening statement by the Hearing Panel Chair, citing the panel's authority to hear the case and explaining the reasons for the hearing.
- (2) The arbitration request or petition will be read into the record.
- (3) The testimony of all parties and witnesses will be affirmed.
- (4) The parties will be given an opportunity to present evidence and testimony on their behalf. All witnesses will be excused from the hearing except while testifying.
- (5) The parties will be afforded an opportunity to examine and cross-examine all witnesses and parties.
- (6) Panel members may ask questions at any time during the hearing.
- (7) The panel Chair may exclude any questions which the Chair deems irrelevant or argumentative.
- (8) Each side may make a closing statement. The complainant will make the first closing statement and the respondent will make the final closing statement.
- (9) The hearing will adjourn.
- (10) The Hearing Panel will go into executive session to decide the case.

## **J. Role of Legal Counsel**

A party may be represented in any arbitration hearing by legal counsel. However, parties may not refuse to respond directly to requests for information or questions addressed to them by members of the Hearing Panel, except on the grounds of self-incrimination, or on other grounds deemed by the panel to be appropriate. In this connection, the panel need not accept the statements of legal counsel as being statements of counsel's client if the panel desires direct testimony. Parties will be held responsible for the conduct of their legal counsel. Any effort by legal counsel to harass, intimidate, coerce, or confuse the panel members or any party to the proceedings or any action by legal counsel which is viewed by the panel as disruptive of the proceedings, will be grounds for exclusion of legal counsel from the hearing. The decision to exclude legal counsel for any of the foregoing reasons must be based on a majority vote of the members of the panel and may not be appealed. In the event legal counsel is excluded, the hearing will be postponed, to a date certain not less than thirty (30) nor more than ninety (90) days from the date of adjournment, to enable the party to obtain alternate legal counsel, provided, however, that such postponement will not be authorized if it appears to members of the panel that the action of legal counsel has been undertaken to obtain a postponement or delay of the hearing.

## K. SIOR's "Arbitration Guidelines"

All parties to arbitration should become familiar with SIOR's Arbitration Guidelines (SIOR-PS Form 14), because they provide Hearing Panels with guidance as to general issues and questions involved in many arbitration hearings.

### (1) Procuring Cause

Determination of "procuring cause" is often the foundation of an arbitration dispute over entitlement to a commission or a portion of a commission. While a number of definitions of procuring cause exist, and a myriad of factors may ultimately enter into any determination of procuring cause, for purposes of arbitration conducted within the SOCIETY OF INDUSTRIAL AND OFFICE REALTORS<sup>®</sup>, procuring cause can be understood as the uninterrupted series of causal events which results in a successful real estate transaction. Or, in other words, what causes a successful real estate transaction to occur.

Many have tried to define a single, comprehensive template that can be used in all procuring cause disputes to determine entitlement to a commission in dispute without a comprehensive analysis of all relevant details of an underlying transaction. Unfortunately, there is no typical transaction, and fair and equitable decisions require a comprehensive understanding of the events that led to a transaction.

### (2) Factors for Consideration by Arbitration Hearing Panels

#### (a) No Predetermined Rule of Entitlement

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

#### (b) Arbitrability and Appropriate Parties

While primarily the responsibility of the Grievance Review Panel, arbitration Hearing Panels may consider in light of the evidence (as distinguished from the mere allegations) questions of whether an arbitrable issue actually exists, and whether the parties named are appropriate to arbitration.

#### (c) Relevance and Admissibility

Frequently, Hearing Panels are asked to rule on questions of admissibility and relevancy. The general rule states that anything a Hearing Panel believes may assist it in reaching a fair, equitable, and knowledgeable decision is admissible. If a Hearing Panel believes that an SIOR Adherent involved in the arbitration may have violated the *Code of Ethical Principles and Standards of Professional Practice*, the panel may cite the relevant testimony and refer it to the Professional Standards Committee Chair for consideration in the same manner as other alleged violations of the *Code of Ethical Principles and Standards of Professional Practice*. Under no circumstances may an ethics hearing be conducted, based on concerns identified by an arbitration Hearing Panel, until after the arbitration process has been completed and the award, if any, has been made.

#### (d) Communication and Contact • Abandonment and Estrangement

Many arbitrable disputes turn on the relationship, or lack thereof, between a broker (often a cooperating broker) and a prospective buyer/lessee. Panels need to consider whether, under the circumstances and in accord with general custom and practice, a broker made reasonable efforts to develop and maintain an ongoing relationship with the buyer/lessee.

Panels need to determine, in cases where two cooperating brokers have competing claims against a listing broker, whether the first cooperating broker actively maintained ongoing contact with the buyer/lessee or, alternatively, whether the broker's inactivity, or perceived inactivity, may have caused the buyer/lessee to reasonably conclude that the broker had lost interest or disengaged from the transaction (abandonment). In other instances, a buyer/lessee, despite reasonable efforts by a broker to maintain ongoing contact, may seek assistance from another broker.

The panel needs to consider why the buyer/lessee abandoned the first broker. In still other instances, there may be no question that there was an ongoing relationship between a broker and a buyer/lessee; the issue then becomes whether the broker engaged in conduct which caused the buyer/lessee to terminate the relationship (estrangement). Panels need to consider whether such conduct caused a break in the series of events leading to a transaction and whether the successful transaction was actually brought about through the initiation of a separate, subsequent series of events by the second cooperating broker.

In assessing issues in this area, panels should be mindful of the rules imposed on Adherents by Code Principle 14 (Do Not Interfere with the Relationships or Rights of Other Real Estate Professionals), Standard of Practice 14.1 (Abandonment), Standard of Practice 14.2 (Alienation and Estrangement), Standard of Practice 14.3 (Termination), Standard of Practice 14.4 (No Other Exceptions), and Standard of Practice 14.5 (Compensation Rights).

(e) Conformity with Law

The procedures by which arbitration requests are reviewed, hearings are conducted, and awards are made should be selected in conformity with governing law. The parties have the obligation to explain their perception of the requirements of applicable law. The advice of SIOR legal counsel may be sought in any case where the panel believes that the procedural requirements of law may be critical or where the parties insist that the procedures being followed are not adequate.

(f) Consideration of the Entire Course of Events

The standard of proof in arbitration hearings is a preponderance of the evidence and the initial burden of proof rests with the party requesting arbitration. This does not, however, preclude panel members from asking questions of the parties or witnesses to confirm their understanding of testimony presented or to ensure that panel members have a clear understanding of the events that led to the transaction and to the request for arbitration.

## L. Settlement

The parties to an arbitration may settle the issue between them by agreement at any time. In such event, upon notification to the professional standards staff officer, the arbitration proceedings will be terminated and the termination will be recorded in the file.

A portion or all of each party's deposit may be retained by SIOR to cover the costs incurred by SIOR up to the point of settlement of the dispute. The decision on that question will be made by the Professional Standards Committee Chair.

#### **M. Decision and Award Following Hearing**

(1) The award of the arbitrators (SIOR-PS Form 13, "Arbitration Decision and Award") will be made as soon as possible after the hearing is concluded. The award will be in writing and signed by the arbitrators or a majority of them that joined in the decision, will state only the amount of the award, and when so signed and provided to each of the parties, will be valid and binding. Notwithstanding the foregoing, a party to an arbitration proceeding may appeal to the Board of Directors. Such appeals may be based only on claims of procedural deficiency or procedural irregularities.

(2) The award will direct the disposition of the arbitration fees paid by the parties. Any amount retained from the deposits may be used by the staff officer to cover the costs of the arbitration. Any portion not used specifically to cover the costs of the arbitration will go into the general operating funds of SIOR. In the event the award of the arbitrators is an amount other than that requested by any of the parties, the disposition of the fees will be directed by the arbitrators. When a SIOR Adherent requests arbitration to determine which of multiple respondents is entitled to disputed funds, or where a party makes no claim to the disputed funds, that party may not be assessed an arbitration filing fee.

(3) After an award has been sent to each of the parties, they have twenty (20) days to request procedural review of the arbitration hearing procedure as described in this manual. If no such review is requested, the award becomes final and binding following the twenty (20) day period. However, if procedural review is requested, the award is not considered final and binding until completion of Board of Directors review.

#### **N. Procedural Review by the Board of Directors**

(1) A written request for procedural review of arbitration hearing procedures must be filed with the professional standards staff officer within twenty (20) days after an award has been served on the parties using SIOR-PS Form 21, "Request for Arbitration Hearing Procedural Review." A request for procedural review must cite the alleged procedural deficiencies or other procedural irregularities the party believes deprived the party of a fair hearing (e.g., exclusion of witnesses, fraud, coercion, bias, prejudice, evident partiality). Only the bases raised in the written request for procedural review may be raised during the review before the Board of Directors. The request for procedural review will be reviewed by the professional standards staff officer only for the purpose of determining whether the request states an appropriate type of objection for consideration by the Board. If determined to be insufficient, the request will be returned to the requestor accompanied by an explanation and a request for an amendment providing additional detail, to be received by the professional standards staff officer within ten (10) days. This initial administrative review is not a decision on the merits of the request for procedural review but is intended only to ensure compliance with the requirement that the request describe the alleged procedural deficiency or irregularity on which the appeal is based.

(2) When a request for procedural review (as originally filed if in proper form, as originally filed if no amendment is submitted, or as amended even if still deemed to be lacking) is received, the professional standards staff officer will immediately send a copy to the other party and provide to the SIOR president a copy of the request for procedural review and the related correspondence, if any. The professional standards staff officer will notify all parties of the time and place of the review by the Board of Directors at least thirty (30) days in advance. The time set for the hearing will be a time which coincides with the Board's next regular meeting or at a special meeting called for that purpose. Notice will be given using SIOR-PS Form 22, "Official Notice of Arbitration Procedural Review." That notice will be accompanied by SIOR-PS Form 20 ("Notice of Right to Challenge Hearing Panel Members in an Ethics or Arbitration Appeal Hearing"). A challenge may be submitted, using that form, within ten (10) days after the notice is sent. Anyone who is a party to or testified during the original hearing, was a member of the Grievance Review Panel which reviewed this request, was a member of the original Hearing Panel, or who was otherwise directly involved in the matter prior to the appeal, is disqualified from serving on the Appeal Hearing Panel. Furthermore, anyone who is related by blood or other family relationship to any party to the hearing, or who is an employer, partner, employee, or directly associated in business with any of the parties, or affiliated with any person or entity who is directly associated in business with any of the parties, or who is a party to the hearing or a party or a witness in any other pending case involving the complainant or respondent, or who is involved in any other relationship or has knowledge which may prevent him/her from rendering an impartial decision, is also disqualified. A party to the appeal may also cite any other ground that may prevent an appeal panel member from rendering an impartial decision. Challenges will be ruled upon by the SIOR President .

(3) Any party may be represented by legal counsel and each party is requested to provide written notice of an intention to have counsel present at least ten (10) days before the scheduled hearing date. Failure to provide this notice will not invalidate a party's right to legal representation but may result in a continuance of the hearing if the appeal panel determines that the rights of any other party require representation by legal counsel, or if such other party requests a continuance in order to retain counsel.

(4) The request for procedural review may be heard by a panel of directors appointed by the SIOR president for that purpose (or, alternatively, by SIOR's Executive Committee). Five (5) directors will constitute such a procedural review panel, which will act on behalf of the Board of Directors. The decision of the panel (or Executive Committee) will be final and binding and will not be subject to further review by the Board of Directors.

(5) At the procedural review appeal hearing, the party filing the request will have an opportunity to explain the bases on which the party is requesting that the award of the arbitrators be overturned. The Chair of the arbitration panel will have an opportunity to respond to the appellant's statement. The other party will have the opportunity to address the appellant's arguments and support materials. The hearing will be generally organized by and will follow the procedural steps outlined in the "Appeal Panel Chair Procedural Guide for Arbitration Appeal Hearings," which appears as Annex B at the end of this part of the manual. It is essentially a form that the panel Chair uses as a starting point in preparing to direct the hearing. The parties are urged to consider these procedures and present any resulting issues or requests in writing to the professional standards staff officer well prior to the start of the hearing, so that their resolution will not cause unnecessary delay or inconvenience to other participants. Issues raised in this manner will be ruled upon by the appeal panel Chair.

(6) The Board of Directors will not hear an appeal with respect to the merits of an arbitration award, and will not, on appeal, review evidence offered with respect to the merits of that award, except as such evidence may bear upon a claim of deprivation of procedural fairness. The directors will render their decision promptly. This decision may be to adopt the award of the arbitrators or to overturn the award based on a

substantial procedural error in the arbitration hearing process that resulted in denial of fair consideration or fair determination of the issues.

(7) If the appeal panel determines that a substantial procedural error occurred, which resulted in the denial of due process to one or more parties, the appeal panel may invalidate the original arbitration award and direct that the matter be referred to the Professional Standards Committee for a hearing on the merits before a different Hearing Panel. Alternatively, the appeal panel may release the parties from their obligation to arbitrate if the directors conclude that SIOR will be unable to appoint an impartial Hearing Panel.

## **O. Confidentiality of Arbitration Proceedings and Results**

All members of any Hearing Panel will have an obligation to maintain and protect the confidentiality of the proceedings and deliberations of the Hearing Panel before, during, and after its determinations and recommendations. Hearing Panel members will not discuss Hearing Panel proceedings and deliberations with any person(s) except as required by these procedures or by law.

All other participants in an arbitration proceeding also have an obligation to maintain and protect the confidentiality of the proceedings and their results.

Unauthorized disclosure includes any report or publication under any circumstances not established in this manual. The following are circumstances where disclosure by a party to an ethics and/or arbitration proceeding is authorized:

- (i) where the dissemination of a decision to individuals who have some knowledge of the proceeding might vindicate an Adherent's professional reputation; or
- (ii) where there is a civil, criminal or administrative proceeding involving the same facts and circumstances which gave rise to the proceedings.

## **P. Enforcement of Awards**

The judgment of any competent court of record, either state or federal, may be rendered upon the award. If an Adherent fails to comply with an award, the party to whom the award has been rendered will be advised by SIOR to seek judicial enforcement and request reimbursement of legal fees incurred in seeking enforcement. At the discretion of the Board of Directors, SIOR may support the request for judicial enforcement in the court.

**ANNEX A**

**Hearing Panel Chair Procedural Guide  
for Arbitration Hearings**

The hearing will start promptly at the appointed time. All parties to the hearing are asked to enter the hearing room.

(Recording by court reporter and/or recorder begins.)

**CHAIR'S OPENING STATEMENT:**

Ladies and gentlemen, I now call this hearing to order. The Hearing Panel of the Professional Standards Committee is charged under the Bylaws of the SOCIETY OF INDUSTRIAL AND OFFICE REALTORS® with holding hearings in matters concerning alleged unethical conduct, or in the arbitration of business disputes arising out of the real estate business. Hearings follow the rules described in *SIOR's Ethics, Mediation & Arbitration Procedures Manual*. The body meeting here is an impartial panel of the Professional Standards Committee that has been selected and called here today to ascertain the truth in the particular matter at hand, which is an arbitration proceeding, and to render a decision on the testimony and evidence presented. An ethics proceeding is different from an arbitration proceeding, and the two types of proceedings should not be confused. The particular matter to be considered by this panel at this time is an arbitration proceeding.

The Professional Standards Committee is a body duly constituted under the authority of the Bylaws of The SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®. The Committee members have been duly appointed by SIOR President and approved by the Board of Directors. At this time, I would like to introduce the members of this panel, all of whom are members of the Professional Standards Committee.

My name is \_\_\_\_\_, and I will serve as Chair of this Hearing Panel.

The other members of this panel are: \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, and  
\_\_\_\_\_.

Present at this hearing is \_\_\_\_\_, the complainant, and his/her business associate(s), \_\_\_\_\_.



The complainant is accompanied by legal counsel, \_\_\_\_\_, and witnesses who include \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_.

(If the complainant is represented by legal counsel, confirm that the respondent was notified in advance. If not, ask if there is an objection. If none, have the respondent sign a statement to that effect.)

Also present at this hearing is \_\_\_\_\_, the respondent, and his/her business associate(s), \_\_\_\_\_.

The respondent is accompanied by legal counsel, \_\_\_\_\_, and witnesses who include \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_.

*(If the respondent is represented by legal counsel, confirm that the complainant was notified in advance. If not, ask if there is an objection. If none, have the complainant sign a statement to that effect.)*

SIOR's legal counsel, \_\_\_\_\_, and SIOR's professional standards staff officer, \_\_\_\_\_, also are present today.

This proceeding is being recorded. I ask all parties to cooperate by speaking clearly into the microphones so that we have an accurate and complete record of this proceeding.

#### BASIS OF THE HEARING

This hearing is to arbitrate a business dispute arising out of the real estate business in accordance with the request of the complainant that he/she be awarded [specify the amount and type of payment in dispute, *such as* commission or part of a commission] in connection with [identify the real estate transaction or the professional assignment giving rise to the claim]. The request for arbitration is as follows:

*(Read the Arbitration Request, SIOR-PS Form 3, into the record.)*

Any prior offers for settlement or proposed mediation resolutions of this case will not be considered by the Hearing Panel.

This panel is not governed by the technical rules of evidence which may apply in a court of law. This panel will seek to determine all ascertainable and relevant facts pertaining to the matter under consideration to arrive at a peer judgment and decision that is fair to all of the parties. The panel is governed and directed by the Bylaws of the SOCIETY OF INDUSTRIAL AND OFFICE REALTORS<sup>®</sup>, SIOR's *Code of Ethical Principles and Standards of Professional Practice*, and SIOR's *Ethics, Mediation and Arbitration Procedures Manual*. The panel determines its own rules of evidence and its own procedures, with the objectives of equity and due process. The following has been generally accepted and ruled on by this panel as to the procedures to be followed during this hearing:

1. All parties and their representatives to these proceedings will be allowed full opportunities to be heard on matters relevant to the issue. The panel may rule at any time during the hearing on the relevance of testimony being given or on questions being directed to any party or his/her representative or to witnesses providing testimony. All parties and witnesses will be asked to affirm that testimony given is the truth to the best of their knowledge.

2. *(Read only if either or both parties has legal counsel present; otherwise, proceed to 3.)*

A party may be represented by legal counsel. However, no party may refuse to respond directly to requests for information or questions addressed to him/her by members of the panel except on grounds of self-incrimination or other grounds which the panel deems appropriate. In this connection, the panel need not accept the statements of legal counsel as being the statements of his/her client if the panel desires direct testimony. Legal counsel is present to advise and consult with his/her client, and to speak for him/her subject to appropriate rulings or determinations by the panel. This panel will countenance no effort by any party or by any legal counsel to any party to harass, intimidate, coerce, or confuse the panel members or any party to the proceedings.

3. The panel may rule at any time on the admissibility of evidence. As Chair, I will act as keeper of the evidence introduced at this hearing and mark each exhibit with an exhibit identification number and date.

4. The members of this panel are authorized, individually, to ask questions as they deem pertinent and significant at any time during this hearing. To preserve order, I will rule on questions or testimony by the parties and their representatives, or by witnesses in these proceedings. If deemed necessary, I will consult with the members of this panel and with SIOR legal counsel concerning such rulings.

5. At this time, I request that all persons present in the room who expect to testify at this hearing stand and make appropriate affirmation.

*(Ask each party and witness to stand and affirm.)*

Raise your right hand, and following the question I now pose, answer in the affirmative if you do so affirm:

Do you affirm that the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth?

*(If all parties affirm)* Let the record show that all parties have answered in the affirmative. Please be seated. Witnesses are excused from the hearing at this time until called to provide testimony.

## OUTLINE OF PROCEDURE FOR HEARING

Both the complainant and the respondent were sent a copy of the Outline of Procedure for an Ethics or Arbitration Hearing (SIOR-PS Form 10) and SIOR's Arbitration Guidelines (SIOR-PS Form 14). Did each of you receive the Outline and Guidelines? *(If yes)* Let the record show that both the complainant and respondent have stated that they did receive the Outline and Guidelines. *(If no, the party should be given a copy and the Chair should inquire if that party has any objections to proceeding.)* Do you have any questions concerning the Outline of Procedure or the Arbitration Guidelines? *(If none)* Let the record show that neither the complainant nor the respondent has any questions concerning the Outline of Procedure or the Arbitration Guidelines.

We will now proceed with the hearing.

### PRESENTATION BY THE COMPLAINANT

The complainant will now state his/her case and present any evidence or witnesses that he/she may desire.

*(Before each witness is excused)*

### CROSS EXAMINATION BY RESPONDENT

### QUESTIONS FROM PANEL MEMBERS

### PRESENTATION BY THE RESPONDENT

The respondent will now state his/her case and present any evidence or witnesses that he/she may desire.

*(Before each witness is excused)*

### CROSS EXAMINATION BY COMPLAINANT

### QUESTIONS FROM PANEL MEMBERS

### CLOSING STATEMENTS

At this time, both the complainant and the respondent will be given opportunities to make a summary or closing statement if they so desire. The complainant's closing statement will be heard first.

### CLOSING STATEMENT BY THE COMPLAINANT

### CLOSING STATEMENT BY THE RESPONDENT

Does each of you feel that this hearing has been conducted fairly? *(If yes)* Let the record show that both the complainant and the respondent have indicated that they feel this hearing has been conducted fairly. Have each of you had adequate opportunity to testify, present evidence and witnesses, and conduct cross-examination? *(If yes)* Let the record show that both the complainant and the respondent have indicated that they have had the opportunity to testify, present evidence and witnesses, and conduct cross-examination. *(If any party answers "no," ask him/her to explain his/her concern for the record.)*

Before we adjourn the hearing, all persons are advised that the award of the panel is considered confidential. It will be available only to members of this panel, the parties, counsel, and staff as required or as otherwise specified in SIOR's Ethics, Mediation and Arbitration Procedures Manual. Upon final action by the Hearing Panel in an arbitration proceeding, the decision, when signed by the members of the Hearing Panel, or a majority of Hearing Panel members, will be served upon the parties to the dispute. The parties will be notified of the decision within the required time after this hearing is adjourned.

There being no further business to be considered in this hearing, this hearing stands adjourned.

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## EXECUTIVE SESSION

*After adjournment, the panel will remain in executive session and determine the award. The panel will follow the procedure set forth in the Ethics, Mediation and Arbitration Procedures Manual, including the Arbitration Guidelines set forth in SIOR-PS Form 14. SIOR counsel should review all decisions of any hearing conducted by a professional standards Hearing Panel involving the resolution of business disputes. Such review should occur prior to any action of the panel becoming final.*

## ANNEX B

### Hearing Panel Chair Procedural Guide for Arbitration Procedural Review Hearings

The hearing will start promptly at the appointed time. All parties to the hearing are asked to enter the hearing room.

#### CHAIR'S OPENING STATEMENT:

Ladies and gentlemen, I now call this procedural review hearing to order. *SIOR's Ethics, Mediation & Arbitration Procedures Manual* provides for the right to a review of the procedures used in arbitration hearings. Both the complainant and the respondent in an arbitration hearing have the right to request a procedural review. This particular request for procedural review will be heard by [the SIOR Board of Directors - or - a panel of directors appointed by the President - or - SIOR's Executive Committee], hereinafter referred to as the procedural review Hearing Panel.

The particular matter to be considered by this procedural review Hearing Panel is a request for review of the hearing procedures used in an arbitration hearing on \_\_\_\_\_ (date). The original arbitration Hearing Panel was composed of \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, and chaired by \_\_\_\_\_.

The basis of the original arbitration hearing was an arbitration request filed by \_\_\_\_\_, the complainant(s), against \_\_\_\_\_, the respondent(s), claiming that a dispute arising out of the real estate business existed between the complainant(s) and the respondent(s). The Arbitration Decision and Award announced following the arbitration hearing was as follows:

*(Read the Arbitration Decision and Award, SIOR-PS Form 13, into the record.)*

Prior to the original arbitration hearing, the Arbitration Request was reviewed by a SIOR Grievance Review Panel and referred to SIOR's Professional Standards Committee for a hearing.

The procedural review Hearing Panel present here to day is a body duly constituted under the authority of the Bylaws of SOCIETY OF INDUSTRIAL AND OFFICE REALTORS® and *SIOR's Ethics, Mediation & Arbitration Procedures Manual*.

At this time, I would like to introduce the members of this appeal Hearing Panel.

My name is \_\_\_\_\_, and I will serve as Chair of this procedural review Hearing Panel.

The other members of this panel are: \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, and  
\_\_\_\_\_.

Anyone who was a party to the original arbitration hearing, a member of the Grievance Review Panel that reviewed this arbitration request, a member of the original arbitration Hearing Panel, or who was otherwise involved in this matter prior to the appeal, is disqualified from serving on this procedural review Hearing Panel. Furthermore, anyone who is related by blood or other family relationship to any party to the hearing, or who is an employer, partner, employee, or directly associated in business with any of the parties, or affiliated with any person or entity who is directly associated in business with any of the parties, a party to the hearing or a party or a witness in any other pending case involving the complainant or the respondent, or who is involved in any other relationship or has knowledge which may prevent him/her from rendering an impartial decision, also is disqualified. I will now ask the members of the procedural review Hearing Panel if they know of any reason why they should be disqualified. *(If none)* Let the record show that the members of the procedural review Hearing Panel have not indicated any reason why they are not qualified to serve. Although the parties have been previously notified of their right to challenge members of this procedural review Hearing Panel, I will now ask the parties if they are aware of any reason why any member of this procedural review Hearing Panel is not qualified to serve. *(If none)* Let the record show that the parties have not indicated any reason why any member of this procedural review Hearing Panel is not qualified to serve.

Present at this procedural review hearing are \_\_\_\_\_, the complainant(s) in the original arbitration hearing and his/her counsel (if any) \_\_\_\_\_; \_\_\_\_\_, the respondent in the original arbitration hearing and his/her counsel (if any) \_\_\_\_\_; the original arbitration Hearing Panel Chair, \_\_\_\_\_; SIOR's legal counsel, \_\_\_\_\_; and SIOR's professional standards staff officer, \_\_\_\_\_.

## APPEAL LIMITATIONS

In this procedural review hearing we will consider the arguments of \_\_\_\_\_, hereinafter referred to as the appellant, who filed a Request for Arbitration Hearing Procedural Review. The basis for the procedural review is limited to alleged procedural deficiencies or procedural irregularities the appellant believes prevented a fair hearing (*e.g.*, exclusion of witnesses, fraud, coercion, bias, prejudice, evident partiality, etc.). The procedural review is further limited to the basis(es) set forth, in writing, in the Request for Procedural Review, as follows:

*(Read the Request for Arbitration Hearing Procedural Review, SIOR-PS Form 21, into the record.)*

## GUIDELINES

This procedural review panel is not construing issues of law and is not governed by the technical rules of evidence which may apply in courts of law. This procedural review panel will seek to determine all ascertainable and relevant facts pertaining to the matter under consideration to arrive at a peer judgment and decision that is fair to all of the parties. The decision will be based solely upon the arguments, evidence, and testimony offered during this procedural review hearing. All parties or their representatives to these proceedings will be allowed a full opportunity to be heard on matters relevant to the issue. The procedural review Hearing Panel may rule at any time during this hearing on the relevance of testimony being given. All parties giving testimony will be asked to affirm that testimony given is the truth to the best of their knowledge. A party may be represented by legal counsel. The procedural review Hearing Panel need not accept the statements of counsel as being the statements of their clients if this Hearing Panel desires direct testimony. Counsel are present to advise and consult with their clients, and to speak for them, subject to appropriate rulings or determinations by the procedural review Hearing Panel. This procedural review Hearing Panel will countenance no effort by any party or by counsel to harass, intimidate, coerce, or confuse the appeal Hearing Panel or any party to the proceedings.

## OUTLINE OF PROCEDURE

At this time, I would like to explain the order of proceedings for this hearing. First, the appellant will have an opportunity to explain the basis (es) upon which he/she is requesting that the Arbitration Decision and Award be overturned. Next, the original arbitration Hearing Panel Chair will have an opportunity to respond to the matters raised by the appellant. Then, any other party to the original arbitration hearing will have an opportunity to address the appellant's arguments. At any time during this proceeding, members of the panel may ask questions. Finally, following the procedural review hearing, the Appeal Panel will go into executive session to reach a decision. Do any of the parties have any questions regarding that outline of the procedure? *(If none)* Let the record show that none of the parties has any questions regarding the outline of the procedure.

*(Ask each party and witness to affirm.)*

Raise your right hand, and following the question I now pose, answer in the affirmative if you do so affirm:

Do you affirm that the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth?

*(If all parties affirm)* Let the record show that all parties have answered in the affirmative. Please be seated.

## PROCEDURAL REVIEW HEARING

We shall now proceed with the procedural review hearing.

## PRESENTATION BY THE APPELLANT

At this time, the appellant may present the basis (es) upon which he/she is requesting that the Arbitration Decision and Award be overturned.

## PRESENTATION BY THE ORIGINAL ARBITRATION HEARING PANEL CHAIR

At this time, the original arbitration Hearing Panel Chair will have an opportunity to demonstrate why the Arbitration Decision and Award should be upheld by the procedural review Hearing Panel.

## PRESENTATION BY THE OTHER PARTIES TO THE ORIGINAL ARBITRATION HEARING

At this time, any other parties to the original arbitration hearing will have an opportunity to address whether the Arbitration Decision and Award should be upheld by the procedural review Hearing Panel. Any such party must restrict his/her presentation to the issues raised in the Request for Arbitration Hearing Procedural Review.

## CONFIRMATION OF FAIRNESS/OPPORTUNITY TO TESTIFY

Does each of you feel that this hearing has been conducted fairly? *(If yes)* Let the record show that all parties to this procedural review indicated that they feel this hearing has been conducted fairly. Have each of you had an adequate opportunity to state why you believe that the decision of the original arbitration Hearing Panel should or should not be upheld by this procedural review Hearing Panel? *(If yes)* Let the record show that the appellant, the original panel Chair and the other party have indicated that they have had the opportunity to state why they believe that the decision of the original arbitration Hearing Panel should or should not be upheld by this procedural review Hearing Panel. *(If any party answers "no," ask him/her to explain his/her concern for the record.)*

## CLOSING STATEMENT

The decision of this procedural review appeal panel is final. Before we adjourn this procedural review hearing, all persons present are advised that the final determination of this panel is considered confidential. Upon final action by this panel, the SIOR President will disseminate to the complainant and the respondent in the original arbitration hearing, the Board of Directors, the Chair and members of the original arbitration Hearing Panel, SIOR legal counsel, and the professional standards staff officer such notice as the President deems appropriate under the circumstances.

There being no further business to be considered in this procedural review hearing, this hearing stands adjourned. The panel will now go into executive session to render its final decision, which will be based solely on the arguments, evidence, and testimony offered at this hearing.



## EXECUTIVE SESSION

*After adjournment, the sole issue for the panel to decide is whether the arbitration procedures utilized in rendering the Arbitration Decision and Award afforded the appellant a fair hearing, in light of the objections raised on the SIOR-PS Form 21. If the procedural review Hearing Panel determines that the original arbitration hearing process was defective in any way that prevented a fair hearing, the Arbitration Decision and Award should be invalidated and the matter referred to a different arbitration Hearing Panel for a new hearing. Alternatively, the procedural review Hearing Panel may release the parties from their obligation to arbitrate, if the procedural review Hearing Panel concludes that SIOR will be unable to appoint an impartial arbitration Hearing Panel. Hearing Panel decisions will be made by majority vote.*

1 In the event the respondent improperly declines to arbitrate, the procedures described in Part II under the heading "Initial Action by the Board of Directors for Failure to Arbitrate" become applicable.

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**  
**Ethics, Mediation & Arbitration Procedures Manual**

**Part IV**  
**FORMS USED IN**  
**PROFESSIONAL STANDARDS PROCEEDINGS**

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# FORMS USED IN PROFESSIONAL STANDARDS PROCEEDINGS

## A. Forms Overview

SIOR's Professional Standards system, like the National Association of REALTORS system from which it has been derived, uses a number of forms to document formal requests, commitments, and determinations reached in connection with ethics enforcement and financial dispute resolution. The forms are constructed to help describe their function in the process and often include instructions that provide related guidance. Nevertheless, it is important for participants to understand, as applicable, the ethics enforcement procedures described in Part II of this manual or the financial dispute resolution procedures described in Part III. In the (unintended) event of any conflict between the forms and the procedures specified in Parts II and III of this manual, the latter are controlling.

The forms appearing in this part of the manual may be copied and used. Copies can be obtained by any interested person from SIOR's Washington, D.C. office, through the professional standards staff officer. Adherents also may download or print copies from SIOR's website ([www.sior.com](http://www.sior.com)).

Questions concerning the forms, or suggestions for amendments or additions, may be directed to the professional standards staff officer. Policy issues arising in this context will be referred by the professional standards staff officer to the Professional Standards Committee and/or another appropriate SIOR body.

The forms are listed below in three separate ways. The first list identifies the forms intended for use in ethics enforcement proceedings. Some of those forms will be used in virtually every proceeding, while others may or may not be needed, depending on the course of the proceeding. The forms appear in the list in the approximate order in which they might be used. The second list similarly identifies the forms intended for use in resolving financial disputes. The third list is organized by form number. The forms themselves, which make up the balance of this part of the manual, are ordered by number, as shown in the third list. The third list also shows the page of this manual where a given form begins.

## B. Forms Used in Ethics Enforcement Proceedings

Ethics Complaint (SIOR-PS Form 2)

Report of Potential Ethics Violation (SIOR-PS Form 2A)

Request for Information in Response to an Ethics Complaint (SIOR-PS Form 4)

Response to Ethics Complaint (SIOR-PS Form 6)

Notice of Right to Challenge Hearing Panel Members (SIOR-PS Form 1A)

Official Notice of Ethics Hearing (SIOR-PS Form 8)

Outline of Procedure for Ethics or Arbitration Hearing (SIOR-PS Form 10)

Certificate of Hearing Panel Qualification (SIOR-PS Form 1)

Ethics Hearing Panel Decision (SIOR-PS Form 11)

Request for Appeal of Ethics Hearing Decision (SIOR-PS Form 18)

Official Notice of Ethics Appeal Hearing (SIOR-PS Form 19)

Notice of Right to Challenge Hearing Panel Members in an Ethics or Arbitration Appeal Hearing (SIOR-PS Form 20)

Ethics Hearing Action by the Board of Directors (SIOR-PS Form 12)

### **C. Forms Used in Resolving Financial Disputes**

Mediation/Arbitration Request (SIOR-PS Form 3)

Request for Information in Response to an Mediation/Arbitration Request (SIOR-PS Form 5)

Response to Request for Mediation/Arbitration (SIOR-PS Form 7)

Mediation Officer Selection Form (SIOR-PS Form 17)

Mediation Officer Selection Notice (SIOR-PS Form 17A)

Mediation Resolution Agreement (SIOR-PS Form 16)

Official Notice of Arbitration Hearing (SIOR-PS Form 9)

Notice of Right to Challenge Hearing Panel Members (SIOR-PS Form 1A)

Outline of Procedure for Ethics or Arbitration Hearing (SIOR-PS Form 10)

Arbitration Guidelines (SIOR-PS Form 14)

Certificate of Hearing Panel Qualification (SIOR-PS Form 1)

Arbitration Decision and Award (SIOR-PS Form 13)

Request for Arbitration Hearing Procedural Review (SIOR-PS Form 21)

Official Notice of Arbitration Procedural Review (SIOR-PS Form 22)

Notice of Right to Challenge Hearing Panel Members in an Ethics or Arbitration Appeal Hearing (SIOR-PS Form 20)

### **D. Other Forms**

Confidentiality Statement (SIOR-PS Form 23)

Case # \_\_\_\_\_

SIOR-PS Form 1

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**  
**Professional Standards Process**  
 1201 New York Avenue, NW, Suite 350  
 Washington, DC 20005 USA  
 202-449-8200 phone— 202-216-9325 fax

**CERTIFICATE OF HEARING PANEL QUALIFICATION**

I, the undersigned, member of a Hearing Panel of the Professional Standards Committee of the SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®, do hereby certify that I am not disqualified by any reason stated herein from hearing the case

\_\_\_\_\_ vs. \_\_\_\_\_.

Cited case is a hearing in

- an ethics enforcement proceeding concerning alleged violation of the SOCIETY OF INDUSTRIAL AND OFFICE REALTORS® *Code of Ethical Principles and Standards of Professional Practice*.
- an arbitration of a financial dispute pursuant to the *Code of Ethical Principles and Standards of Professional Practice*.

Reasons for disqualification:

Any member of the Hearing Panel will be disqualified from hearing any case for any of the following reasons if the member:w3

- (a) is related by blood or other family relationship to either the complainant or the respondent.
- (b) is an employer, partner, employee, or directly associated in business with, or affiliated with any person or entity who is directly associated in business with, either the complainant or the respondent.
- (c) is a party to the hearing or a party or witness in any other pending case involving any party to this hearing.
- (d) knows of any other reason that the Hearing Panel majority might determine could prevent him/her from rendering an impartial judgment.

Typed/Printed Name of Panel Member

Signature

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**

**Professional Standards Process**

1201 New York Avenue, NW, Suite 350

Washington, DC 20005 USA

202-449-8200 phone— 202-216-9325 fax

**NOTICE OF RIGHT TO CHALLENGE HEARING  
PANEL MEMBERS IN ETHICS OR ARBITRATION PROCEEDING**

Notice is given herewith to all parties in the matter of:

\_\_\_\_\_ vs. \_\_\_\_\_,

an  ethics /  arbitration proceeding, that any party has the right to challenge the qualifications of any individual who may be appointed to serve on a Hearing Panel. A list of potential appointees, showing the firm, state of business residence and network affiliation, if any, of each potential appointee, is provided below. A person will automatically be disqualified as a member of a Hearing Panel in any proceeding in which the person is (a) related by blood or other familial relationship to either the complaint or the respondent; (b) an employer, partner, or employee directly associated in business with, or affiliated with any person or entity directly associated in business with, either the complainant or the respondent; (c) a party to the hearing or a party or a witness in any other pending case involving the complainant or the respondent; or (d) in any other similar relationship or has knowledge which may prevent him/her from rendering an impartial decision. Other grounds for disqualification may also be asserted and will be considered in light of their nature and the supporting evidence.

Please indicate whether you challenge each listed person by circling the appropriate response, and return a copy of this form to the professional standards staff officer, including a statement explaining your reason(s) for challenge and the related supporting evidence. If your reason(s) is deemed sufficient to support your challenge, the individual challenged will not be appointed to the Hearing Panel for your case. *Challenges must be filed with SIOR within ten (10) days from the date the list of names is provided to the parties involved in a case.*

| Potential Hearing Panel Members | Challenge? |
|---------------------------------|------------|
| _____                           | YES NO     |
| _____                           | YES NO     |
| _____                           | YES NO     |
| _____                           | YES NO     |
| _____                           | YES NO     |
| _____                           | YES NO     |
| _____                           | YES NO     |

SIOR PS-Form 1A - continued

Separately for each person challenged, state the grounds for challenge:

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(The facts supporting the challenge should be detailed in a separate attached statement and copies of any documents relied upon should be appended to that statement.)

Name (typed/printed): \_\_\_\_\_

Signature: \_\_\_\_\_

Challenge Date: \_\_\_\_\_

**OFFICE USE ONLY**

Date Received by SIOR: \_\_\_\_\_

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**  
**Professional Standards Process**  
1201 New York Avenue, NW, Suite 350  
Washington, DC 20005 USA  
202-449-8200 phone— 202-216-9325 fax

**ETHICS COMPLAINT**

To the Professional Standards Committee of The Society of Industrial and Office Realtors®:

Date Submitted: \_\_\_\_\_ Date Received by SIOR: \_\_\_\_\_

Complainant(s): \_\_\_\_\_  
*Those making the complaint.*

Respondent(s): \_\_\_\_\_  
*The subject(s) of the complaint.*

Complainant's Charge(s):  
An alleged violation of SIOR Code Principle(s) \_\_\_\_\_ or Standard(s) of Practice  
\_\_\_\_\_, as supported by the attached statement which is signed and dated by the listed  
complainant(s). The attached statement may be accompanied by such documentation as the complainant(s)  
believe(s) should be considered in determining whether a hearing is warranted.

This complaint is true and correct to the best knowledge and belief of the undersigned.

Under the penalties of perjury, the above listed complainant(s) declare that to the best of my (our) knowledge and  
belief, the allegations included in this complaint are true.

Are the circumstances giving rise to this ethics complaint involved in civil or criminal litigation or in any  
proceeding before the state real estate licensing authority or any professional or government regulatory or  
administrative body or agency?

YES NO If yes, explain: \_\_\_\_\_

Were the listed respondent(s) subject to SIOR's Code of Ethics and Standards of Professional Practice at  
the time of the alleged ethics violation?

YES NO If no, explain: \_\_\_\_\_

Complainant(s)

Typed/printed: \_\_\_\_\_ Signature: \_\_\_\_\_

Typed/printed: \_\_\_\_\_ Signature: \_\_\_\_\_



Case # \_\_\_\_\_

SIOR-PS Form 2A

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**  
**Professional Standards Process**  
 1201 New York Avenue, NW, Suite 350  
 Washington, DC 20005 USA  
 202-449-8200 phone— 202-216-9325 fax

**REPORT OF POTENTIAL ETHICS VIOLATION**

*Standard of Practice 15.4 obligates all Adherents to report to SIOR all potential violations of SIOR’s Code of Ethical Principles and Standards of Professional Practice by other Adherents of which the reporting Adherent has first hand knowledge. This form is used to submit such reports. This form need not be filed where an Adherent has filed an Ethics Complaint using SIOR-PS-Form 2 related to the same potential violation. Reports of potential ethics violations are subject to review and investigation by the Professional Standards Committee, which may initiate an enforcement proceeding or take other appropriate action.*

To the Professional Standards Committee of the SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®:

Date Submitted: \_\_\_\_\_ Date Received by SIOR: \_\_\_\_\_

Reporting Adherent (name, address, phone): \_\_\_\_\_  
\_\_\_\_\_

Adherent Potentially at Fault (name, address, phone): \_\_\_\_\_  
\_\_\_\_\_

Report: The undersigned has first hand knowledge of a potential violation of SIOR’s Code Principle(s) \_\_\_\_\_ or Standard(s) of Practice \_\_\_\_\_.

This knowledge is described in the attached signed and dated statement. (The attached statement should identify other persons who the reporter believes may have relevant knowledge. It should also include any detailed explanations requested below. The attached statement may be accompanied by such documentation as the reporter believe(s) the should be considered in determining whether and what further action is warranted.)

Are the circumstances giving rise to this report involved in civil or criminal litigation or in any proceeding before the state real estate licensing authority or any government regulatory or administrative agency?

YES NO If yes, explain: \_\_\_\_\_

Was the Adherent potentially at fault subject to SIOR’s Code of Ethics and Standards of Professional Practice at the time of the potential ethics violation?

YES NO If no, explain: \_\_\_\_\_

This report is true and correct to the best knowledge and belief of the undersigned.

Reporting Adherent’s  
Name (Typed/printed): \_\_\_\_\_ Signature: \_\_\_\_\_

Case # \_\_\_\_\_

SIOR-PS Form 3

**Society of Industrial and Office REALTORS®**

**Professional Standards Process**

1201 New York Avenue, NW, Suite 350

Washington, DC 20005 USA 202-449-8200 phone— 202-216-9325 fax

**MEDIATION/ARBITRATION REQUEST**

A real estate-related business dispute exists between the complainant(s) listed and the respondent(s) listed below. Complainant(s) understand that principal respondent(s) named below was an Active member or held Candidate status in the Society of Industrial and Office REALTORS® ("SIOR") at the time the dispute arose.

Principal Respondent: \_\_\_\_\_

Other Respondents: \_\_\_\_\_

There is due, unpaid and owing to complainant(s) from the above named respondent(s) the sum of \$\_\_\_\_\_. This claim is predicated upon the attached statement, and supporting documentation, which is incorporated by reference into this request.

Complainant(s) request and consent to mediation and, if necessary, arbitration through SIOR in accordance with Principle 16 of the SIOR's *Code of Ethical Principles and Standards of Professional Practice*, and agree to mediate in good faith, and to abide by and promptly comply with any mediation settlement or arbitration award. In the event I (we) do not comply with the mediated settlement or arbitration award and it is necessary for any party to this mediation/arbitration to obtain judicial confirmation and enforcement of an award against complainant(s), complainant(s) agree to pay the party obtaining such enforcement the costs and reasonable attorney fees incurred in obtaining such confirmation and enforcement.

Enclosed is complainant(s) check, payable to Society of Industrial and Office REALTORS®, in the amount of \$2,500 for the mediation filing fee to help cover mediator expenses.

Complainant(s) agree(s) to comply with the procedures for resolving financial disputes provided in the Society's *Ethics, Mediation & Arbitration Procedures Manual*, including the use of mediation prior to entering into a formal arbitration. Mediation is the first step in SIOR's arbitration process. If mediation is not successful, the matter will be referred for an arbitration hearing in accordance with the guidelines set forth in SIOR's *Ethics, Mediation and Arbitration Procedures Manual*.

If the parties to the mediation conference agree to a settlement of the dispute and the settlement is reduced to writing and has been signed by all of the parties, the matter will be considered resolved, and will not be the subject of a subsequent arbitration hearing. In the event that either of the parties fails to abide by the terms of the settlement, the matter may not be arbitrated; instead, the other party is encouraged to have the settlement agreement judicially enforced by a court or competent jurisdiction.

No aspect of a mediation conference may be relied upon or introduced as evidence in any arbitration, judicial, or other proceeding, including, but not limited to, views expressed or suggestions made by the parties with respect to possible settlement of the dispute, admissions made in the course of the mediation, proposals made or views expressed by the mediation officer, or the responses of any party to any of the aforementioned. No privilege will be affected by disclosures made in the course of mediation. Disclosure of any records, reports, or other documents received or prepared by the mediation officer will not be compelled. Neither SIOR nor the mediation officer may be compelled to disclose or testify in any proceeding as to information disclosed or representations made in the course of the mediation or confidential communication to the mediation officer.

Complainant(s) agree(s) that if mediation fails to resolve the dispute, SIOR arbitration procedures will be complied with and complainant(s) will remit an additional \$2,500 arbitration filing fee to cover arbitrator expenses.

Under the penalties of perjury, complainant(s) declare that this request and the allegations contained herein are true and correct to the best of their knowledge and belief.

Are the circumstances giving rise to this mediation/arbitration request the subject of pending or completed civil litigation or administrative agency action?

YES NO

Is the principal complainant the broker of record for your firm in this transaction?

YES NO NOT APPLICABLE

If there is a broker of record for your firm in this transaction other than the principal complainant, it will be necessary for that broker of record to agree that this matter may be resolved through the requested mediation/arbitration, sign this form on the "Other Complainants" line and indicate that she/he is the broker of record.

My signature to this Agreement confirms my acknowledgment of my rights and the terms of the mediation/arbitration procedures outlined herein. I hereby affirm that I have authority to enter into and sign a binding written agreement to settle this dispute and that any agreement signed by the parties pursuant to the mediation conference will be binding.

Complainant(s):

Principal Complainant: \_\_\_\_\_

Other Complainants: \_\_\_\_\_

Date: \_\_\_\_\_

Case # \_\_\_\_\_

SIOR-PS Form 4

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**

**Professional Standards Process**

1201 New York Avenue, NW, Suite 350

Washington, DC 20005 USA

202-449-8200 phone— 202-216-9325 fax

**REQUEST FOR INFORMATION  
IN RESPONSE TO AN ETHICS COMPLAINT**

Date: \_\_\_\_\_

To: \_\_\_\_\_

In the case of \_\_\_\_\_ (complainant)

vs. \_\_\_\_\_ (respondent).

The indicated complainant has named you as respondent in the attached ethics complaint that will be reviewed by an SIOR Grievance Review Panel in accordance with the policies and procedures stated in SIOR's *Ethics, Mediation & Arbitration Procedures Manual*.

Please be advised that you have thirty (30) days to provide a response to the professional standards staff officer at the address above. Your response should include the attached Response to Ethics Complaint (SIOR-PS Form 6) and must be signed and dated. This complaint and your response will be treated as confidential.

Failure to provide a response may result in the complaint being forwarded for a hearing and may also result in the Professional Standards Committee filing of a complaint against you, alleging a violation of the Code of Ethics for failure to submit requested facts that are pertinent to a grievance proceeding.

**YOUR RESPONSE IS DUE BY \_\_\_\_\_.**

*Please attach your response to SIOR-PS Form 6 and return by the indicated date.*

Please contact me at 202-449-8200 if you have questions. Thank you for your cooperation.

Sincerely,

\_\_\_\_\_  
Professional Standards Staff Officer

Case # \_\_\_\_\_

SIOR-PS Form 5

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**  
**Professional Standards Process**  
1201 New York Avenue, NW, Suite 350  
Washington, DC 20005 USA  
202-449-8200 phone— 202-216-9325 fax

**REQUEST FOR INFORMATION  
IN RESPONSE TO MEDIATION/ARBITRATION REQUEST**

Date: \_\_\_\_\_

To: \_\_\_\_\_, named by  
\_\_\_\_\_ as respondent.

Attached hereto is a copy of a Mediation/Arbitration Request which names you as respondent, as filed with SIOR. The matter will be reviewed by an SIOR Grievance Review Panel to determine whether it is appropriate for SIOR mediation/arbitration, in accordance with the policies and procedures set forth in SIOR's *Ethics, Mediation & Arbitration Procedures Manual*.

The Professional Standards Committee requests that the respondent provide a written response to this Mediation/Arbitration Request within thirty (30) days of receipt of this request. Your response should be submitted using SIOR-PS Form 7, "Response to Request for Mediation/Arbitration." If no response is filed within the time allotted, the Grievance Review Panel will make its determination whether an arbitration hearing should be scheduled based upon the information set forth in the Arbitration Request.

**YOUR RESPONSE IS DUE BY \_\_\_\_\_.**  
*Please attach your response to SIOR-PS Form 7 and return by the indicated date.*

If you have questions, please contact me at 202-449-8200. Thank you for your cooperation.

Sincerely,

\_\_\_\_\_  
Professional Standards Staff Officer

Case # \_\_\_\_\_

SIOR-PS Form 6

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**  
**Professional Standards Process**  
1201 New York Avenue, NW, Suite 350  
Washington, DC 20005 USA  
202-449-8200 phone— 202-216-9325 fax

**RESPONSE TO ETHICS COMPLAINT**

To the SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®:

Complainant(s): \_\_\_\_\_

Respondent(s): \_\_\_\_\_

In response to an alleged violation of SIOR's *Code of Ethical Principles and Standards of Professional Practice*, the undersigned respondent responds and substantiates such response by the attached statement. (The statement should address whether the respondent agrees or disagrees with the facts asserted by the complainant and should address whether the facts are understood by the respondent do or do not involve one or more ethics violations. The statement may be accompanied by such documents as the respondent may believe will prove helpful.)

Under the penalties of perjury, I declare that, to the best of my knowledge and belief, the statements contained in this response are true and correct.

Respondent:

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

OFFICE USE:

Date Received by SIOR: \_\_\_\_\_

Case # \_\_\_\_\_

SIOR-PS Form 7

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**  
**Professional Standards Process**  
 1201 New York Avenue, NW, Suite 350  
 Washington, DC 20005 USA  
 202-449-8200 phone— 202-216-9325 fax

**RESPONSE AND AGREEMENT TO MEDIATE AND ARBITRATE**

In response to a Mediation/Arbitration Request naming \_\_\_\_\_ as  
 complainant(s) and \_\_\_\_\_ as respondent(s),

I acknowledge the existence of a dispute arising out of the real estate business as defined in the *Code of Ethical Principles and Standards of Professional Practice* but deny any indebtedness as claimed. My denial is predicated upon the attached statement, which is hereby incorporated by reference into this response.

If applicable: Affirmatively, I claim that a monetary dispute arising out of the real estate business exists between the parties wherein there is due, owing and unpaid to me the sum of \_\_\_\_\_. My claim is predicated upon the attached statement, which is hereby incorporated into this response.

Mediation is the first step in SIOR's arbitration process. If mediation is not successful, the matter will be referred for an arbitration hearing in accordance with the guidelines set forth in SIOR's Ethics, Mediation and Arbitration Procedures Manual.

If the parties to the mediation conference agree to a settlement of the dispute and the settlement is reduced to writing and has been signed by all of the parties, the matter will be considered resolved, and will not be the subject of a subsequent arbitration hearing. In the event that either of the parties fails to abide by the terms of the settlement, the matter may not be arbitrated; instead, the other party is encouraged to have the settlement agreement judicially enforced by a court or competent jurisdiction.

No aspect of a mediation conference may be relied upon or introduced as evidence in any arbitration, judicial, or other proceeding, including, but not limited to, views expressed or suggestions made by the parties with respect to possible settlement of the dispute, admissions made in the course of the mediation, proposals made or views expressed by the mediation officer, or the responses of any party to any of the aforementioned. No privilege will be affected by disclosures made in the course of mediation. Disclosure of any records, reports, or other documents received or prepared by the mediation officer will not be compelled. Neither SIOR nor the mediation officer may be compelled to disclose or testify in any proceeding as to information disclosed or representations made in the course of the mediation or confidential communication to the mediation officer.

I consent to mediation, and to arbitration in the event that mediation fails, through SIOR in accordance with SIOR's *Ethics, Mediation & Arbitration Procedures Manual*; in the event of arbitration, I agree to abide by the arbitration award and to comply with it promptly. In the event that I do not comply with an arbitration award and it is necessary for any party to this arbitration to obtain judicial confirmation and enforcement of the arbitration award against me, I agree to pay the party obtaining such enforcement the costs and reasonable attorneys' fees incurred in obtaining such confirmation and enforcement.

Is one of the named respondents the broker of record for your firm in this transaction?  
 YES      NO      NOT APPLICABLE

If there is a broker of record for your firm in this transaction other than the named respondents, it will be necessary for that broker of record to agree that this matter may be resolved through the requested arbitration, sign this form on the "Other Respondents" line and indicate that she/he is the broker of record.

I enclose my check, payable to the SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®, in the amount of \$2,500 for the mediation filing fee. I agree that if mediation fails to resolve the dispute, SIOR arbitration procedures will be complied with and I will remit an additional \$2,500 arbitration filing fee to cover arbitrator expenses.

Under the penalties of perjury, I declare that the information provided with this response is true and correct to the best of my knowledge and belief.

My signature to this Agreement confirms my acknowledgment of my rights and the terms of the mediation/arbitration procedures outlined herein. I hereby affirm that I have authority to enter into and sign a binding written agreement to settle this dispute and that any agreement signed by the parties pursuant to the mediation conference will be binding.

Date: \_\_\_\_\_

Respondent(s):

Principal Respondent Name: \_\_\_\_\_

Principal Respondent Signature: \_\_\_\_\_

Other Respondents: \_\_\_\_\_

OFFICE USE:      Date Received by SIOR: \_\_\_\_\_



Case # \_\_\_\_\_

SIOR-PS Form 8

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**  
**Professional Standards Process**  
 1201 New York Avenue, NW, Suite 350  
 Washington, DC 20005 USA  
 202-449-8200 phone— 202-216-9325 fax

**OFFICIAL NOTICE OF ETHICS HEARING**

In the case of

\_\_\_\_\_ vs. \_\_\_\_\_  
*Complainant(s)* *Respondent(s)*

The above parties are hereby notified that the Chair of the ethics Hearing Panel has designated the following as the date, time, and place for hearing the above case. This is a hearing concerning the alleged violation of the following provisions of SIOR's *Code of Ethical Principles and Standards of Professional Practice*:

\_\_\_\_\_.

You are hereby notified to appear at the appointed time and place.

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Place: \_\_\_\_\_

The members of the ethics Hearing Panel for this case are:

Chair: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Any party may be represented by a single non-legal SIOR counsel who is an Adherent to the Code or by legal counsel, and each party is requested to provide written notice to the parties and SIOR of an intention to have counsel present, at least fifteen (15) days prior to the hearing. Failure to provide this notice will not invalidate a party's right to counsel, but may result in a continuance of the hearing.

Each party must provide a list of names of witnesses he/she intends to call at the hearing to all parties and SIOR not less than fifteen (15) days prior to the hearing. Each party must arrange for his/her witnesses to be present at the time and place designated for the hearing. The parties must not discuss the case with any member of the Hearing Panel or the Board of Directors prior to the hearing or after the hearing and prior to announcement of the decision.

Date Issued: \_\_\_\_\_  
 \_\_\_\_\_  
 Professional Standards Staff Officer

Case # \_\_\_\_\_

SIOR-PS Form 9

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**OFFICIAL NOTICE OF ARBITRATION HEARING**

In the case of

\_\_\_\_\_ vs. \_\_\_\_\_  
*Complainant(s)* *Respondent(s)*

The above parties are hereby notified that the Chair of the arbitration Hearing Panel has designated the following as the date, time, and place for hearing the above case. This is an arbitration hearing concerning resolution of a financial dispute, and the hearing will be conducted in accordance with SIOR's Ethics, Mediation and Arbitration Procedures Manual.

You are hereby notified to appear at the appointed time and place.

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Place: \_\_\_\_\_

The members of the Hearing Panel for this case are:

Chair: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Each party may be represented by legal counsel and each party is requested to provide written notice to the parties and SIOR of an intention to have counsel present, at least fifteen (15) days prior to the hearing. Failure to provide this notice will not invalidate a party's right to legal representation, but may result in a continuance of the hearing if the Hearing Panel determines that the rights of any other party require representation by counsel.

Each party must provide a list of names of witnesses he/she intends to call at the hearing to all parties and SIOR not less than fifteen (15) days prior to the hearing. Each party must arrange for his/her witnesses to be present at the time and place designated for the hearing. The parties must not discuss the case with any member of the Hearing Panel or the Board of Directors prior to the hearing or after the hearing and prior to announcement of the decision. Parties to an arbitration proceeding may settle the issue between them by joint agreement at any time and, in such event, should provide written notice of such settlement to the professional standards staff officer.

Date Issued: \_\_\_\_\_  
 \_\_\_\_\_  
 Professional Standards Staff Officer

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**OUTLINE OF PROCEDURE  
FOR ETHICS OR ARBITRATION HEARINGS****Postponement of Hearing**

Postponement may be granted if there are extenuating circumstances. Requests for postponement must be made in writing. Requests can be granted by the Hearing Panel Chair. All parties will be advised of the date of the rescheduled hearing.

**Recording the Hearing**

SIOR may, and any party may at its own expense, have a court reporter present or may make an audio recording of the proceeding. If a party prepares a hearing transcript, it must provide a copy to SIOR's professional standards staff officer. If SIOR utilizes a court reporter in lieu of an audio recording, the parties may still make their own audio recordings. The hearing may not be videotaped without the prior written consent of all parties and SIOR.

**Hearing Arrangements and Procedure**

Absent specific prior arrangements, hearings typically are held in rooms such as hotel meeting rooms and are scheduled for less than half of a day. If any party requires unusual physical arrangements or an unusually long period of time in order that the party's case may be fully and fairly presented, the party should report such need or request to the professional standards staff officer in writing as soon as possible, so that there will be a reasonable opportunity to assess and, if appropriate, accommodate the request. Decisions on requests for unusual hearing physical arrangements or times will be ruled upon by the panel Chair, in consultation with the professional standards staff officer.

The Hearing Panel will not be bound by the rules of evidence applicable in courts of law, but will afford all parties a full opportunity to be heard, present witnesses, and offer evidence, subject to the panel Chair's judgment as to relevance. After the Official Notice of Ethics Hearing (SIOR-PS Form 8) has been issued, the parties may provide the professional standards staff officer with additional written materials and/or statements to support their positions. Written affidavits should include notarized proof of their authorship. At the hearing, panel members may also receive other written statements, documents, or other papers and will hear testimony from the parties and their witnesses. It is the responsibility of all parties to arrange for their witnesses to be present at hearing. In appropriate circumstances and subject to prior notice to the other parties and the professional standards staff officer, non-Adherent witnesses may participate by telephone or other electronic means. The Hearing Panel may receive and consider any evidence it deems material and proper, including evidence of experts. Each party is responsible for the expenses of their witnesses and legal counsel.

**Hearing Format**

The hearing procedure will include the following steps:

- An Opening Statement will be made by the Hearing Panel Chair, citing authority to hear the case and explaining the reasons for the hearing.
- Reading of the complaint into the record.
- The testimony of all parties and witnesses will be affirmed. All witnesses will be excused from the hearing except while testifying.
- The parties will be given an opportunity to present evidence and testimony on their behalf and they may call witnesses. The parties will be afforded an opportunity to examine and cross-examine all witnesses and parties.
- The panel members may ask questions at any time during the hearing.
- The Hearing Panel Chair may exclude any question ruled to be irrelevant or argumentative.
- Each party may make a closing statement. The complainant will make the first closing statement and the respondent will make the final closing statement.
- The hearing will be adjourned.
- The Hearing Panel will go into executive session to decide the case.

### **Finding in an Ethics Hearing**

The finding and recommendation for discipline, if any, will be reduced to writing by the Hearing Panel and submitted to the parties and SIOR's Board of Directors in accordance with the procedures defined in SIOR's Ethics, Mediation and Arbitration Procedures Manual.

Disciplinary action that SIOR's Board of Directors may impose on Adherents may consist of one or more of the following:

- (1) a letter of warning with a copy to be placed in the Adherent's file;
- (2) a letter of reprimand with a copy to be placed in the Adherent's file;
- (3) a requirement that the Adherent attend a SIOR course or seminar or a program sponsored by another REALTOR® group that addresses ethics and can be reasonably attended taking into consideration cost, location, and duration;
- (4) an appropriate and reasonable fine not to exceed a maximum amount equal to ten times SIOR's annual national dues in effect at the time the fine is imposed;
- (5) placing the Adherent on probation for a stated period of time, not less than thirty (30) days nor more than one (1) year in duration;
- (6) suspension of membership or Candidate status for a period not less than thirty (30) days nor more than one (1) year, with automatic reinstatement to good standing at the end of the suspension period;

In lieu of suspension, at the option of the Board, an assessment not to exceed an amount equal to ten times SIOR's annual national dues in effect at the time the assessment is imposed, which assessment may be imposed on a given Adherent only once in any three (3) year period;

- (7) expulsion from membership or Candidate status with no reinstatement opportunity for a specified period of one (1) to three (3) years, with any subsequent readmission to be by application only after the specified period of expulsion, the decision on readmission to be made based on the merits of the application, considered under the admissions standards in effect at the time.

SIOR has adopted criteria limiting when the more serious sanctions, suspension and expulsion may be imposed. An Adherent may be suspended or expelled where the Hearing Panel finds:

- A violation that caused death or significant personal injury; or
- A violation that has caused substantial economic injury to the party represented or to any other party to whom a duty of honesty, faith or trust, or a fiduciary duty is owed; or
- A violation that has produced governmental criticism or substantial media criticism of the adherent and/or has cast aspersions on the real estate profession or SIOR; or
- That the respondent's misconduct involved a violation as egregious as those addressed by the above three criteria but not literally covered by any one of them; or
- That within the 10 years preceding the complaint, the respondent has been found to have violated the Code on two (2) or more separate occasions.

The first two criteria are intended to identify violations that have caused serious harm to individuals or businesses. The third encompasses certain violations that have adversely affected the reputation of the profession or SIOR. The fourth covers violations of equal or greater severity that do not fall literally within the language of either of the first three criteria.

The fifth suspension/expulsion criterion covers the situation where an adherent has been found to have engaged in repeated violations over a 10-year period, indicating a pattern of non-compliance. It is not required that each violation be serious; the emphasis is on repetition. For the purposes of this guideline, the violation found by the panel counts as one of the two. Many violative-conduct scenarios involve violations of more than one Code Principle or Standard of Practice. This guideline is not triggered by the violation of two Principles or Standards in a single incident; rather, it applies where there are found (partly by earlier Hearing Panels in most instances) to have been two or more separate incidents involving violations by the respondent.

### **Award in an Arbitration Hearing**

The decision of the Hearing Panel in an arbitration proceeding will be reduced to writing, setting forth only the amount of the award, if any, and a copy will be furnished to each of the parties to the arbitration. A copy will be filed with the professional standards staff officer.

### **Use of Legal Counsel**

A party may be represented in any arbitration hearing by legal counsel. However, parties may not refuse to respond directly to requests for information or questions addressed to them by Hearing Panel members except on the grounds of self-incrimination, or on other grounds deemed appropriate by the panel Chair. In this connection, the panel need not accept the statements of legal counsel as being the statements of legal counsel's client if the panel desires direct testimony. Parties will be held responsible for the conduct of their legal counsel. Any efforts by legal counsel to harass, intimidate, coerce, or confuse the panel members or any party to the proceedings or any action by legal counsel which is viewed by the panel as disruptive of the proceedings will be grounds for exclusion of legal counsel from the hearing. The decision to exclude legal counsel for any of the foregoing reasons will be the result of a majority vote of the Hearing Panel members and will not be appealable. In the event legal counsel is excluded, the hearing will be postponed to a date certain not less than thirty (30) days nor more than ninety (90) days from the date of adjournment to enable the party to obtain alternate legal counsel, provided, however, that such postponement will not be authorized if it appears to members of the panel that the action of legal counsel has been undertaken to obtain a postponement or delay of the hearing.

**Accommodation of Disabilities**

If any party, witness, or counsel involved in the proceeding requires accommodation because of a disability, SIOR will do its best to provide such accommodation. Individuals requiring such accommodation must contact SIOR's professional standards staff officer at least fifteen (15) days before the hearing.

**Questions about These Procedures**

Questions about these procedures should be directed to SIOR's professional standards staff officer at the address and telephone number above. A more complete statement of the rules governing hearings and other proceedings, as well as a full set of potentially applicable forms, is found in SIOR's Ethics, Mediation and Arbitration Procedures Manual, a copy of which may be obtained from the professional standards staff officer.

Case # \_\_\_\_\_

SIOR-PS Form 11

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**ETHICS HEARING PANEL DECISION**

Date Filed: \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Complainant(s): \_\_\_\_\_

Respondent(s): \_\_\_\_\_

**FINDINGS OF FACT**

The Hearing Panel's decision is based on its having found the following facts to have been established:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**CONCLUSIONS**

We, the members of the Hearing Panel in the case described above, find the respondent in violation or not in violation of the following provisions of the Code of Ethics (circle the indicated finding):

|                                      |              |                  |
|--------------------------------------|--------------|------------------|
| Principle/Standard of Practice _____ | IN VIOLATION | NOT IN VIOLATION |
| Principle/Standard of Practice _____ | IN VIOLATION | NOT IN VIOLATION |
| Principle/Standard of Practice _____ | IN VIOLATION | NOT IN VIOLATION |

The basis for these above conclusions, in light of the above facts, is that: \_\_\_\_\_

\_\_\_\_\_

**RECOMMENDATION FOR DISCIPLINARY ACTION**

We recommend to the Board of Directors the following action:

\_\_\_\_\_

\_\_\_\_\_

The preceding Findings of Fact, Conclusions, and Recommendation(s) were rendered by an ethics Hearing Panel comprised of the following members whose signatures are affixed below.

Hearing Panel Chair:

|               |           |
|---------------|-----------|
| _____         | _____     |
| typed/printed | signature |

Hearing Panel Members:

|               |           |
|---------------|-----------|
| _____         | _____     |
| typed/printed | signature |

|               |           |
|---------------|-----------|
| _____         | _____     |
| typed/printed | signature |

|               |           |
|---------------|-----------|
| _____         | _____     |
| typed/printed | signature |

|               |           |
|---------------|-----------|
| _____         | _____     |
| typed/printed | signature |

|               |           |
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| _____         | _____     |
| typed/printed | signature |

NOTICE: This decision is not final and is subject to certain rights of both the complainant(s) and the respondent(s).

REHEARING AND APPEAL RIGHTS: Within twenty (20) days of this notification, either party may request a rehearing on an adverse decision by the original Hearing Panel. This request must be directed to the Hearing Panel Chair via the staff officer and the Hearing Panel will consider the request. The granting of a request for rehearing will be based only upon the requestor's obtaining new evidence which could not have been discovered with reasonable diligence and produced at the original hearing. If no petition for rehearing is filed, either party may appeal to the Board of Directors within thirty (30) days after a Hearing Panel decision has been transmitted to the parties. If rehearing has been sought, appeals must be requested within ten (10) days after denial of a petition for rehearing.

FINAL ACTION BY BOARD: Both the complainant and the respondent will be notified upon final action of the Board of Directors on SIOR-PS Form 12.



Case # \_\_\_\_\_

SIOR-PS Form 12

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 Washington, DC 20005 USA  
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**ETHICS HEARING ACTION  
 BY THE BOARD OF DIRECTORS**

Ethics Hearing Date: \_\_\_\_\_

Complainant(s): \_\_\_\_\_

Respondent(s): \_\_\_\_\_

**IF NO APPEAL HAS BEEN FILED AS TO THE HEARING PANEL'S DECISION:**

The decision of the Hearing Panel in the above referenced case (attached) came before SIOR's Board of Directors (or its Executive Committee) and was considered on \_\_\_\_\_.

The decision of the Hearing Panel and its recommendation for disciplinary action, if any, in the above referenced case was:

\_\_\_\_\_ adopted verbatim.

\_\_\_\_\_ adopted, but the recommendation for discipline is modified as follows:

\_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ remanded to the Hearing Panel for further consideration of the recommended discipline.

\_\_\_\_\_ remanded to the Professional Standards Committee for a new hearing by a different Hearing Panel based on perceived procedural deficiency(ies) or errors.

Reason(s) for rejection/alteration of the Hearing Panel's decision and/or recommendation and Board concerns with the Hearing Panel's decision and/or recommendation:

\_\_\_\_\_  
 \_\_\_\_\_

This action of the Board of Directors (or the Executive Committee) was adopted on \_\_\_\_\_ by resolution.

SIOR President \_\_\_\_\_

**IF AN APPEAL HEARING IS HELD:**

The decision of the Hearing Panel in the above referenced case was appealed by:

\_\_\_\_\_ (appellant)

and was considered by SIOR's Board of Directors, the Executive Committee, or an appeal panel on

\_\_\_\_\_.

A copy of the appellant's appeal request stating the basis for appeal is attached.

Basis for Appeal: \_\_\_\_\_

The decision of the Hearing Panel and its recommendation for disciplinary action, if any, in the above referenced case was:

\_\_\_\_\_ adopted verbatim.

\_\_\_\_\_ adopted, but the recommendation for discipline is modified as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ remanded to the Hearing Panel for further consideration of the recommended discipline.

\_\_\_\_\_ remanded to the Professional Standards Committee Chair for a new hearing by a different Hearing Panel based on perceived procedural deficiency(ies) or error(s).

\_\_\_\_\_ rejected and the matter is dismissed.

Reason(s) for remand/alteration/rejection of the Hearing Panel's decision and/or disciplinary recommendation and Board concerns with the Hearing Panel's decision and/or recommendation:

\_\_\_\_\_

\_\_\_\_\_

**DISPOSITION OF APPEAL DEPOSIT (if any):**

\_\_\_\_\_ returned to appellant. \_\_\_\_\_ other; specify: \_\_\_\_\_

\_\_\_\_\_ retained by SIOR. \_\_\_\_\_

This action of the Board of Directors was adopted on \_\_\_\_\_.

Appeal Hearing Panel Chair \_\_\_\_\_

SIOR President \_\_\_\_\_

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**ARBITRATION DECISION AND AWARD**

Complainant(s): \_\_\_\_\_

Respondent(s): \_\_\_\_\_

Arbitration Hearing Date: \_\_\_\_\_

We, the undersigned arbitration Hearing Panel members, duly appointed to hear and determine an equitable resolution of a business dispute in accordance with SIOR's Code of Ethical Principles and Standards of Practice, do hereby certify that we proceeded to hear evidence of the parties to this controversy in accordance with the applicable provisions of SIOR's Ethics, Mediation and Arbitration Procedures Manual and, having heard all the evidence, proof, and arguments of the respective parties to the arbitration, a majority of the Hearing Panel members has reached the following decision:

\_\_\_\_\_ There is an amount due in the sum of \$\_\_\_\_\_ to the \_\_\_\_\_ from the \_\_\_\_\_.

The \$2,500 fees paid made by the parties are subject to the following disposition:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ There is no amount due to either party.

The fees paid by both parties will be retained by SIOR to offset the expenses of the arbitration, except as follows: \_\_\_\_\_. Any portion of any retained fee not specifically used to offset arbitration expenses will be retained by SIOR in accordance with the policies and procedures set forth in the Ethics, Mediation and Arbitration Procedures Manual.

Requests for procedural review of this arbitration hearing must be filed in writing to SIOR President within twenty (20) days after this decision has been served on the parties. Requests for procedural review must cite one or more alleged procedural deficiencies or errors the appealing party believes prevented a fair hearing.

Date of Decision: \_\_\_\_\_

Hearing Panel Chair:

\_\_\_\_\_  
typed/printed

\_\_\_\_\_  
signature

Hearing Panel Members:

\_\_\_\_\_  
typed/printed

\_\_\_\_\_  
signature

\_\_\_\_\_  
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typed/printed

\_\_\_\_\_  
signature

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## ARBITRATION GUIDELINES

### **Factors for Consideration by Arbitration Hearing Panels**

The following factors are recommended for consideration by Hearing Panels convened to arbitrate disputes between brokers or between brokers and their clients, customers and/or other real estate professionals. This list is not all-inclusive nor is it applicable to every situation. It is intended to guide panels as to the facts, issues, and relevant questions that may aid them in reaching fair, equitable, and reasoned decisions and to guide parties to an arbitration in preparing their testimony and evidence.

#### **Factor 1: No Predetermined Rule of Entitlement**

Every arbitration hearing is considered in light of the relevant facts and circumstances as presented by the parties and their witnesses. Every situation is unique. Previous decisions made by other panels in other matters are to be disregarded.

“Procuring cause” is the primary determining factor in entitlement to compensation in many commission-related disputes. Agency relationships, in and of themselves, do not determine entitlement to compensation. An agency relationship with a client and entitlement to compensation are separate issues. A relationship with a client, or lack of one, should be considered in accordance with the guidelines established to assist panel members in determining procuring cause.

#### **Factor 2: Arbitrability and Appropriate Parties**

While primarily the responsibility of the Grievance review panel, arbitration Hearing Panels may consider questions of whether, in light of the evidence (as distinct from allegations) an arbitrable issue actually exists and whether the parties named are appropriate to arbitration. For additional information on arbitrable issues, refer to Principle 16 of SIOR’s Code of Ethics and the associated Standards of Practice.

#### **Factor 3: Relevance and Admissibility**

Hearing panels often are asked to rule on questions of admissibility and relevancy. The general rule is that anything a Hearing Panel believes may assist it in reaching a fair, equitable, and knowledgeable decision is admissible.

Arbitration Hearing Panels are intended to resolve contractual questions, not to determine whether the Code of Ethics has been violated (which is the role of an ethics Hearing Panel). An otherwise substantiated award cannot be withheld solely on the basis that the arbitration Hearing Panel looks with disfavor on the potential recipient’s manner of doing business or even that the panel believes that unethical conduct may have occurred.

At the same time, evidence or testimony is not inadmissible simply because it relates to potentially unethical conduct. While an award (or failure to make a deserved award) cannot be used to punish a perceived “wrongdoer,” it is equally true that Hearing Panels are entitled to (and fairness requires that they) consider all relevant evidence and testimony so that they will have a clear understanding of what transpired before determining entitlement to any award.

#### **Factor 4: Communication and Contact — Abandonment and Estrangement**

Many arbitrable disputes turn on the relationship (or lack thereof) between a broker (often a cooperating broker) and a prospective purchaser. Hearing panels will consider whether, under the circumstances and in accord with local custom and practice, brokers made reasonable efforts to develop and maintain ongoing relationships with purchasers. Panels will want to determine, in cases where two cooperating brokers have competing claims against a listing broker, whether the first cooperating broker actively maintained ongoing contact with the purchaser or tenant or, alternatively, whether the broker’s inactivity, or perceived inactivity, may have caused the purchaser/tenant to reasonably conclude that the broker had lost interest or disengaged from the transaction (abandonment).

In other instances, a purchaser/tenant, despite reasonable efforts by the first broker to maintain contact, may seek assistance from another broker. The panel will consider why the purchaser was estranged from the first broker. In still other instances, there may be no question that there was an ongoing relationship between the first broker and the buyer/tenant; the issue then becomes whether the first broker engaged in conduct which caused the purchaser/tenant to terminate the relationship (estrangement). This can be caused, among other things, by words or actions. The panel will consider whether such conduct caused a break in the series of events leading to the transaction and whether the successful transaction was actually brought about through the initiation of a separate, subsequent series of events by the second cooperating broker.

In assessing issues in this area, panels should be mindful of the rules imposed on Adherents by Code Principle 14 (Do Not Interfere With the Relationship or Rights of Other Real Estate Professionals), Standard of Practice 14.1 (Abandonment), Standard of Practice 14.2 (Alienation and Estrangement), Standard of Practice 14.3 (Termination), Standard of Practice 14.4 (No Other Exceptions), and Standard of Practice 14.5 (Compensation Rights).

#### **Factor 5: Conformity with the Law**

The procedures by which arbitration requests are received, hearings are conducted, and awards are made must be in conformity with governing law. The parties have the obligation to explain their perception of the requirements of applicable law. In such matters, the advice of SIOR's legal counsel may be sought in any case where the panel believes that the procedural requirements of law may be critical or where the parties insist that the procedures being followed are not adequate.

#### **Factor 6: Consideration of the Entire Course of Events**

The standard of proof in SIOR-conducted arbitration is a preponderance of the evidence and the burden of proof rests with the party initially requesting arbitration. However, this does not preclude arbitration Hearing Panelists from asking questions of the parties or witnesses to confirm their understanding of testimony presented or to ensure that panel members have a clear understanding of the events that led to the transaction and to the request for arbitration.

#### **General Issues and Questions to Be Considered by Arbitration Hearing Panels**

Since each transaction is unique, it is impossible to develop a comprehensive list of all issues or questions that panel members may consider in a particular hearing. Panel members are advised to consider the following, which are representative of the issues and questions frequently involved in arbitration hearings.

**Nature and Status of the Transaction:** What was the nature of the transaction? Was there an industrial or office sale or lease?

**Nature, Status, and Terms of the Listing Agreement:** What was the nature of the listing or other agreement? Exclusive right to sell, exclusive agency, open, or some other form of agreement? Was the listing agreement in writing? If not, is the listing agreement enforceable? Was the listing agreement in effect at the time the sale/lease was executed? Was the listed property subject to a management agreement? Were the broker's actions in accordance with the terms and conditions of the listing agreement? Were all conditions of the agreement met? Did the final terms of the transaction meet those specified in the listing agreement? Did the transaction close? Did the listing broker receive a commission? If not, why?

**Nature, Status, and Terms of the Offer to Compensate:** Were an offer of cooperation and an offer of compensation made in writing? If not, how were they communicated? Is the claimant a party to whom the listing broker's offer of compensation was extended? Were the broker's actions in accordance with the terms and conditions of the offers of cooperation and compensation (if any)? Were all conditions of the agreement met?

**Roles and Relationships of the Parties:** Who was the listing broker? Who was the cooperating broker or brokers? Were any of the parties acting as subagents? As buyer/tenant representatives? In some other capacity? Did any of the cooperating brokers have an agreement, written or otherwise, to act as an agent or in some other capacity on behalf of any of the parties? Were any of the brokers (including the listing broker) acting as a principal in the transaction? What were the brokers' relationships with respect to the seller/landlord, buyer/tenant, listing broker, and any other cooperating brokers involved in the transaction? Was the party to whom the property was sold or leased represented by a party with whom the broker has previously dealt? Is the primary shareholder of the buyer/tenant corporation a party with whom the broker had previously dealt? Was a prior prospect a vital link to the buyer? Are all appropriate parties to the matter joined?

**Initial Contact with the Buyer/Tenant:** Who first introduced the buyer/tenant to the property? When was the first introduction made? Was the introduction made when the buyer/tenant had a specific need for that type of property? Was the introduction instrumental in creating the desire to purchase/lease? Did the buyer/tenant know about the property before the broker contacted him/her? Did he/she know it was for sale/lease? Were there previous dealings between the buyer/tenant and the seller/landlord? Did the buyer/tenant find the property on his/her own? How was the first introduction made? Was the property introduced at an open house? What subsequent efforts were made by the broker after the open house? Was the introduction made to a different representative of the buyer/tenant? Was the introduction merely a mention that the property was listed? Which property was first introduced?

**Conduct of the Brokers:** Were all required disclosures complied with? Was there a faithful exercise of the duties a broker owes to his/her client/principal? If more than one cooperating broker was involved, was either (or both) aware of the other's role in the transaction? Did the broker who made the initial introduction to the property engage in conduct (or fail to take action) which caused the buyer/tenant to utilize the services of another broker? Did the cooperating broker (or second cooperating broker) initiate a separate series of events, unrelated to and not dependent on any other broker's efforts, which led to the successful transaction? i.e., did the broker perform services which assisted the buyer/tenant in making the decision to purchase/lease? Did the broker make preparations to show the property to the buyer/tenant? Did the broker make continued efforts after showing the property? Did the broker remove an impediment to the sale/lease? Did the broker make a proposal upon which the final transaction was based? Did the broker motivate the buyer to purchase? How do the efforts of one broker compare to the efforts of another? What was the relative amount of effort by one broker compared to another? What was the relative success or failure of negotiations conducted by one broker compared to the other? If more than one cooperating broker was involved, how and when did the second cooperating broker enter the transaction?

**Continuity and Breaks in Continuity (Abandonment and Estrangement):** What was the length of time between the broker's efforts and the final sale/lease agreement? Did the original introduction of the buyer/tenant to the property start an uninterrupted series of events leading to the sale/lease, or was the series of events hindered or interrupted in any way? Did the buyer/tenant terminate the relationship with the broker? Why? Did negotiations break down? If there was an interruption or break in the original series of events, how was it caused and by whom? Did the seller/landlord change the listing agreement from an open listing to an exclusive listing agreement with another broker? Did the buyer/tenant's motive change? Was there interference in the series of events from any outside or intervening cause or party? Did the broker who made the initial introduction to the property maintain contact with the buyer/tenant or could the broker's inaction have reasonably been viewed by the buyer/tenant as a withdrawal from the transaction? Was the entry of any cooperating broker into the transaction an intrusion into an existing relationship between the buyer/tenant and another broker or was it the result of abandonment or estrangement of the buyer/tenant or at the request of the buyer/tenant?

**Conduct of the Buyer/Tenant:** Did the buyer/tenant make the decision to buy independent of the broker's efforts? Did the buyer/tenant negotiate without any aid from the broker? Did the buyer/tenant seek to freeze out the broker? Did the buyer/tenant seek another broker in order to get a lower price/rate? Did the buyer/tenant express a desire not to deal with the broker and refuse to negotiate through him/her? Did the contract provide that no brokers or certain brokers had been involved?

**Conduct of the Seller/Landlord:** Did the seller/landlord act in bad faith to deprive the broker of his/her commission? Was there bad faith evident from the fact that the difference between the original bid submitted and the final sale price/lease rate equaled the commission? Was there bad faith evident from the fact that a sale/lease to a third party was a straw transaction (one in which an uninvolved party posed as the buyer/tenant) which was designed to avoid paying a commission? Did the seller/landlord freeze out the broker to avoid a commission dispute or to avoid paying a commission at all? Was there bad faith evident from the fact that the seller/landlord told the broker he/she would not sell/lease on certain terms, but did so via another broker or via the buyer/tenant directly?

**Leasing Transactions:** Did the cooperating broker have a tenant representation agreement? Was the cooperating broker working with the unauthorized staff member of the tenant company? Did the cooperating broker prepare a tenant needs analysis? Did the cooperating broker prepare a market analysis of available properties? Did the cooperating broker prepare a tour book showing alternative properties and conduct a tour? Did the cooperating broker show the tenant the property leased? Did the cooperating broker issue a request for proposal on behalf of the tenant for the property leased? Did the cooperating broker take an active part in the lease negotiations? Did the cooperating broker obtain the tenant's signature on the lease document? Did the tenant work with more than one broker? If so, why?

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

Case # \_\_\_\_\_

SIOR-PS Form 16

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**  
**Professional Standards Process**  
 1201 New York Avenue, NW, Suite 350  
 Washington, DC 20005 USA  
 202-449-8200 phone— 202-216-9325 fax

**MEDIATION RESOLUTION AGREEMENT**

Complainant(s): \_\_\_\_\_ Respondent(s): \_\_\_\_\_

The undersigned parties have participated in the mediation of their financial dispute described in the attached SIOR-PS Form 3, pursuant to the mediation procedures specified in SIOR's Ethics, Mediation and Arbitration Procedures Manual, and as a result of that mediation, agree to the following resolution of their dispute:

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The undersigned parties agree to be bound by the above resolution and waive any and all future rights to submit the controversy for arbitration or to litigate the matter. Each party further agrees to hold SIOR harmless, and expressly waive any and all liability of SIOR, or any claims that the party may have against SIOR arising out of the manner in which SIOR conducted mediation, or the resolution of the controversy reached as a result of SIOR's mediation procedures. Further, in the event the award must be judicially enforced, the non-complying party agrees to reimburse the other party for court costs and reasonable attorney's fees.

Complainant(s) Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Respondent(s) Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_ *The undersigned, as mediation officer for SIOR, hereby attests that he/she was present during the mediation process and that the above resolution agreement was voluntarily entered into by the parties to the dispute.*

\_\_\_\_ *The parties to this dispute were not able to resolve the dispute through mediation and the mediation conference has been terminated. The dispute is forwarded for an arbitration hearing.*

Mediation Officer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Mediation Officer Name (printed): \_\_\_\_\_





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**MEDIATION OFFICER SELECTION NOTICE**

In the matter of \_\_\_\_\_ (complainant) vs.  
\_\_\_\_\_ (respondent):

The parties are hereby notified that \_\_\_\_\_  
has agreed to serve as mediation officer for your mediation conference.

The mediation officer will contact you directly to set the date for a conference call or live meeting to mediate this issue.

Mediation is the required first step in SIOR’s arbitration system. If mediation is not successful, the matter will be referred for an arbitration hearing.

Parties to a mediation conference may withdraw from the process at any point prior to reaching an agreement. Should either party withdraw from the process prior to reaching an agreement, the arbitration will proceed in accordance with SIOR’s Ethics, Mediation and Arbitration Procedures Manual.

If the parties to the mediation conference agree to a settlement of the dispute and the settlement is reduced to writing and has been signed by all of the parties, the matter will be considered resolved, and will not be the subject of a subsequent arbitration hearing. In the event that either of the parties fails to abide by the terms of the settlement, the matter may not be arbitrated; instead, the other party is encouraged to have the settlement agreement judicially enforced by a court or competent jurisdiction.

Parties to the mediation may be accompanied by and represented at the conference by legal counsel. If it is your intention to have legal counsel present at the mediation conference, the mediation officer or the professional standards staff officer and the other parties should be advised of this fact at least ten (10) days prior to the conference.

Parties to the mediation conference may agree to a mutual resolution of the matter at any time during the conference. If the parties are unable to resolve the matter after discussing all pertinent facts, the mediation officer may make a recommendation for the resolution of the dispute, either orally or in writing at the conclusion of the conference. Both parties will be given a specified length of time to consider the proposed resolution and advise the mediation officer of their acceptance or rejection of the recommendation. Failure to respond by the deadline will be deemed a rejection of the recommendation. If either of the parties rejects the recommendation, the mediation conference will be deemed concluded and the matter will proceed to SIOR’s Professional Standards Committee for an arbitration hearing.

If you have questions about the mediation conference, please contact SIOR’s professional standards staff officer listed below.

Staff Officer \_\_\_\_\_

Date \_\_\_\_\_

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Washington, DC 20005 USA  
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**REQUEST FOR APPEAL OF AN ETHICS HEARING DECISION**

TO: President of the SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®

RE: The Case of  
Complainant: \_\_\_\_\_  
versus  
Respondent: \_\_\_\_\_

FROM: \_\_\_\_\_

I (we) do hereby request an appeal before the Board of Directors (or its designated appeal panel) in accordance with SIOR's Ethics, Mediation and Arbitration Procedures Manual. My (our) appeal is based on the following:

*(Check one or more of the following and attach a narrative description of the facts and evidence of record which support the bases cited.)*

- \_\_\_\_\_ procedural deficiency or procedural error resulting in an unfair hearing
- \_\_\_\_\_ misapplication or misinterpretation of one or more provisions of the Code of Ethical Principles and Standards of Professional Practice
- \_\_\_\_\_ inappropriateness or excessiveness of the discipline recommended by the Hearing Panel

This Request for Appeal form must be accompanied by a deposit in the amount of \$1,000, made payable to the SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®.

Only those facts and issues raised in this written request will be considered by the Board of Directors at the appeal hearing.

Date Submitted: \_\_\_\_\_

Signature(s): \_\_\_\_\_

Typed/Printed Name(s): \_\_\_\_\_

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**Professional Standards Process**  
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Washington, DC 20005 USA  
202-449-8200 phone— 202-216-9325 fax

**OFFICIAL NOTICE OF ETHICS APPEAL HEARING**

In the case of \_\_\_\_\_, complainant, versus \_\_\_\_\_, respondent, the parties are hereby notified:

- (1) \_\_\_\_\_ (appellant) has appealed the decision of the Hearing Panel in the above cited case, based on \_\_\_\_\_. A copy of the Request for Appeal of an Ethics Hearing Decision (SIOR-PS Form 19), together with its supporting documentation, is attached.
- (2) A Board of Directors appeal panel will meet on \_\_\_\_\_ (date) at \_\_\_\_\_ (time) at \_\_\_\_\_ (location) to hear the appeal.
- (3) Appeal panel members include:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (4) Any party may be represented by legal counsel and each party is requested to provide written notice of an intention to have counsel present at least ten (10) days before the scheduled hearing date. Failure to provide this notice will not invalidate a party's right to legal representation but may result in a continuance of the hearing if the appeal panel determines that the rights of any other party require representation by legal counsel.
- (5) Any party may file with the professional standards staff officer within ten (10) days a written request for disqualification from the appeal panel of any member listed above for the following reasons:
  - (a) Anyone who is related by blood or other familial relationship to either the complainant or the respondent.
  - (b) Anyone who is an employer, partner, or employee or directly associated in business with, or affiliated with any person or entity who is directly associated in business with, either the complainant or the respondent.
  - (c) Anyone who was a party to the hearing or is a party to or testified as a witness in any other pending case involving the complainant or the respondent; or
  - (d) in any other similar relationship or has knowledge which may prevent him/her from rendering an impartial decision.
  - (e) Anyone who was present as a member of the Grievance review panel initially reviewing the ethics complaint, was a member of the professional standards Hearing Panel which reached the decision currently on appeal, or who was otherwise directly involved in the matter prior to the appeal.
  - (f) Anyone who for any other reason may be prevented from rendering an impartial decision.

Challenges should be made using the accompanying SIOR-PS form 20, "Notice Of Right To Challenge Hearing Panel Members In An Ethics Or Arbitration Hearing." The challenge due date is shown on the top of that form.

- (6) The parties will not discuss the case with any member of the appeal panel, Executive Committee, or Board of Directors prior to the appeal hearing or after the appeal hearing and prior to announcement of the decision.

Professional Standards Staff Officer

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date of Issuance: \_\_\_\_\_

Case # \_\_\_\_\_

Response Required by \_\_\_\_\_

SIOR-PS Form 20

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**

**Professional Standards Process**

1201 New York Avenue, NW, Suite 350

Washington, DC 20005 USA

202-449-8200 phone— 202-216-9325 fax

**NOTICE OF RIGHT TO CHALLENGE HEARING PANEL MEMBERS  
IN AN ETHICS OR ARBITRATION APPEAL HEARING**

Notice is given herewith to:

\_\_\_\_\_ vs. \_\_\_\_\_,

an \_\_ ethics / \_\_ arbitration appeal hearing, that a party has the right to challenge the qualifications of any individual who may be appointed to serve on an appeal Hearing Panel. A list of such individuals is provided below. If you wish to challenge the qualifications of any of the individuals listed to sit on the appeal Hearing Panel, please indicate by circling the appropriate response and return a copy of this form to the professional standards staff officer with a statement explaining your reason(s) for challenge. If your reason(s) is deemed sufficient to support your challenge, the individual challenged will not be appointed to the appeal Hearing Panel for your case. *In accordance with the guidelines specified in SIOR's Ethics, Mediation and Arbitration Procedures Manual, challenges must be filed with SIOR within ten (10) days from the date the list of names is sent to the parties involved in a case.*

Appeal Panel Members

Challenge?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

YES NO  
YES NO  
YES NO  
YES NO  
YES NO  
YES NO  
YES NO  
YES NO  
YES NO  
YES NO

*Please attach a written explanation of why any of the above are being challenged.*

Name (typed/printed): \_\_\_\_\_ Signature: \_\_\_\_\_

Challenge Date: \_\_\_\_\_ Date Challenge Received: \_\_\_\_\_

Case # \_\_\_\_\_

SIOR-PS Form 21

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**  
**Professional Standards Process**  
 1201 New York Avenue, NW, Suite 350  
 Washington, DC 20005 USA  
 202-449-8200 phone— 202-216-9325 fax

**REQUEST FOR ARBITRATION HEARING PROCEDURAL REVIEW**

TO: President of the SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®

RE: The Case of  
 Complainant: \_\_\_\_\_  
 versus  
 Respondent: \_\_\_\_\_

FROM: \_\_\_\_\_

I (we) do hereby request a procedural review by the Board of Directors (or its designated panel) of the arbitration hearing held in the above-named case, as provided in the applicable provisions of SIOR's Ethics, Mediation and Arbitration Procedures Manual.

*Review of the merits of the arbitration award will not be made. A request for procedural review must be based on allegation(s) of procedural deficiency or other irregularities which may have deprived a party of a fair hearing. Only those facts and issues raised in this written request will be considered.*

This request is based on the following facts: (Attach documents, including portions of hearing transcripts relied upon to substantiate the occurrence of the procedural events or decisions that the appeal challenges.)

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Submitted by: \_\_\_\_\_

Date: \_\_\_\_\_

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**Professional Standards Process**  
 1201 New York Avenue, NW, Suite 350  
 Washington, DC 20005 USA  
 202-449-8200 phone— 202-216-9325 fax

**OFFICIAL NOTICE OF ARBITRATION PROCEDURAL REVIEW**

In the case of \_\_\_\_\_, complainant, versus

\_\_\_\_\_, respondent, the parties are hereby notified:

(1) \_\_\_\_\_ has requested a procedural review of the arbitration hearing in the above cited case. A copy of the Request for Arbitration Hearing Procedural Review (SIOR-PS Form 21), together with its supporting documentation, is attached.

(2) A procedural review panel will meet on \_\_\_\_\_ (date) at \_\_\_\_\_ (time) at \_\_\_\_\_ (location) to hear the request that the award of the arbitrators be overturned.

(3) Procedural review panel members include:

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

(4) Any party may be represented by legal counsel and each party is requested to provide written notice of an intention to have counsel present at least ten (10) days before the review hearing date. Failure to provide this notice will not invalidate a party's right to legal representation but may result in a continuance of the review if the procedural review panel determines that the rights of any other party require representation by legal counsel.

(5) Either party may file with the professional standards staff officer within ten (10) days a written request for disqualification from the procedural review panel of any member listed above for the following reasons:

- (a) Anyone who is related by blood or other familial relationship to either the complainant or the respondent.
- (b) Anyone who is an employer, partner, or employee or directly associated in business with either the complainant or the respondent, or affiliated with any person or entity who is directly associated in business with.
- (c) Anyone who was a party to the hearing or is a party to or testified as a witness in any other pending case involving the complainant or the respondent.
- (d) in any other similar relationship or has knowledge which may prevent him/her from rendering an impartial decision.
- (e) Anyone who was present as a member of the Grievance review panel initially reviewing the arbitration request, was a member of the professional standards Hearing Panel which reached the decision currently on appeal, or who was otherwise directly involved in the matter prior to the appeal.
- (f) Anyone who for any other reason may be prevented from rendering an impartial decision.

Challenges should be made using the accompanying SIOR-PS Form 20, "Notice Of Right To Challenge Hearing Panel Members In An Ethics Or Arbitration Appeal Hearing." The challenge due date is shown on the top of that form.

- (6) The parties will not discuss the case with any member of the procedural review panel, Executive Committee, or Board of Directors prior to the procedural review hearing or after the procedural review hearing and prior to announcement of the decision.

Professional Standards Staff Officer

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date of Issuance: \_\_\_\_\_

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**Professional Standards Process**  
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Washington, DC 20005 USA  
202-449-8200 phone— 202-216-9325 fax

**SIOR CONFIDENTIALITY STATEMENT**

Please sign and return this form to SIOR Headquarters, 1201 New York Ave., NW, Ste. 350, Washington, DC 20005, ATT: Professional Standards Officer.

I understand that all SIOR professional standards proceedings are conducted in strict confidentiality, and I agree to limit any communication about any aspects of a case before, during or after any procedure or hearing to the chair of the Professional Standards Committee, the staff liaison, members of a Grievance Review Panel or a Hearing Panel, and to my SIOR advisor or legal counsel, if applicable.

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_  
Member

Date \_\_\_\_\_

- Complainant
- Defendant
- Professional Standards Committee
- SIOR Advisor
- Legal Counsel



**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**  
**Ethics, Mediation & Arbitration Procedures Manual**

**ADDENDUM**

**CODE OF ETHICAL PRINCIPLES AND  
STANDARDS OF PROFESSIONAL PRACTICE**

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**CODE OF ETHICAL PRINCIPLES AND STANDARDS OF PROFESSIONAL PRACTICE  
OF THE  
SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**

Approved by the Board of Directors on April 26, 1998  
Effective May 3, 1999

**PREAMBLE TO THE CODE**

The SOCIETY OF INDUSTRIAL AND OFFICE REALTORS® is an association of commercial real estate specialists who are dedicated to the highest principles of professional practice. SIOR's Mission Statement declares that the mission of SIOR is to establish, maintain, and sustain a designation of the highest level for commercial real estate providers, and its Vision Statement stipulates that the designation will define excellence in performance . . . and that its designees are considered the pre-eminent professionals in their fields.

This Code embodies the principles that are the foundation of SIOR's mission and vision. The following paragraphs briefly describe SIOR context in which the Code operates and SIOR policies on interpretation and enforcement of the Code. That discussion is followed by a statement of the specific Principles and Standards of Practice that together form the Code.

**Code Applicability and Intended Effects**

The obligations imposed in this Code apply to all Active designees and Candidates of SIOR (Adherents). These obligations may also be applied to conduct arising from the actions of others who are subject to the Adherents' administration, management, and/or control - such as conduct in which Adherents are involved in conjunction with an employee, associate, or partner.

The obligations imposed by the Code should be viewed as the terms of a contract to which all Adherents are bound. The terms of this contract - hence the obligations of the Code - apply to all real estate-related professional and business dealings, except to the extent specifically exempted by law. Some of the obligations imposed by this Code may exceed the minimum contents of the law and are intended to do so.

The beneficiaries of the contract created by this Code are the clients, customers, principals and other parties who are served by or who conduct real estate-related business with SIOR's Active designees and Candidates. These other parties may include other members of SIOR and other real estate professionals. The Code is also intended to help raise the level of the professional practice of Adherents to the benefit of SIOR, other professional associations, and the general public.

The concepts of "real estate related professional dealings" and "professional practice" include an Adherent's participation in the activities of professional associations and organizations, specifically an Adherent's participation in SIOR-related activities. Consequently, an Adherent's fulfillment of responsibilities assumed as an officer, director, committee chairman, or committee member, or those that are otherwise assumed on behalf of SIOR, at either the national, regional, or chapter level, are subject to the requirements of this Code.

**Administration, Interpretation and Enforcement**

This Code is intended to be administered, interpreted, and enforced solely by SIOR. Anyone having reason to believe that an Adherent may have violated the Code may notify SIOR. SIOR will process any notice or complaint that it receives in accordance with its policies and procedures. Any Adherent who is found to have violated the Code may be sanctioned by SIOR.

Under this Code, Adherents are specifically obligated to participate in and cooperate with any investigation or proceeding arising from an inquiry or complaint concerning their professional conduct. Adherents are also obligated to resolve certain types of financial disputes through mediation and/or binding arbitration.

The Code itself is only part of SIOR's Professional Standards regimen. The tasks required to enforce the Code and conduct ethics and arbitration hearings are performed by SIOR's Grievance Review Panel and Professional Standards Committee, whose makeup and jurisdiction are defined in SIOR's Bylaws. Staff support for their activities is provided by a professional standards staff officer, who may be reached at SIOR's office in Washington, D.C. The procedures to be followed in initiating proceedings under this Code, for processing complaints, and the conduct of ethics and arbitration hearings are detailed in SIOR's Ethics, Mediation and Arbitration Procedures Manual, copies of which may be obtained from SIOR's office (phone: 202-449-8200).

### **Timely Filing of Ethics Complaints and Dispute Resolution Requests**

Notices or complaints alleging ethical misconduct on the part of an Adherent must be filed within one (1) year of the latter of (a) the date of the closing of a sale from which the matter arises or to which it is related; (b) the commencement date of a lease (or its renewal or extension) from which the matter arises or to which it is related; (c) the rental commencement date of a lease (or its renewal or extension) from which the matter arises or to which it is related; (d) the date on which any litigation arising from or related to the matter is concluded; (e) the date on which any proceeding (arising from or related to the matter) before a licensing or regulatory authority is concluded; or (f) the date on which the matter is known, or could be known, in the exercise of reasonable diligence.

Notices or requests for the mediation and/or arbitration of financial disputes in which an Adherent is involved must be filed within one (1) year of the latter of: (a) the date of the closing of a sale from which the matter arises or to which it is related; (b) the commencement date of a lease (or its renewal or extension) from which the matter arises or to which it is related; (c) the rental commencement date of a lease (or its renewal or extension) from which the matter arises or to which it is related; or (d) the date on which the basis of the dispute is known, or could be known, in the exercise of reasonable diligence.

SIOR may consider conduct and other facts that predate the one (1) year filing period, such as those involved in a pattern of repeated ethical misconduct, provided there is a logical nexus between the conduct which falls within the filing period and that which precedes it.

### **Other Professional Codes**

Adherents may also be subject to obligations arising from their membership in other associations or organizations, and to the obligations imposed by regulatory authorities for professional licensing purposes. This Code defines only an Adherent's obligations as an Active designee or Candidate of SIOR. Conduct that is consistent with the obligations of certain other associations, organizations, or regulatory authorities may, nonetheless, be inconsistent with the requirements of this Code, but it is this Code to which an Adherent's conduct is measured by SIOR.

In the case of certain real estate-related activities of commercial specialists, such as appraisals or property management, the standards of other codes of specified professional organizations are adopted by reference as the requirements of this Code.

SIOR Adherents are also subject to the Code of Ethics and Standards of Practice of the NATIONAL ASSOCIATION OF REALTORS®. SIOR Code is substantially consistent with the REALTORS® Code, but is intended to apply specifically to commercial real estate scenarios. SIOR intends to continually attempt to harmonize its Code with the REALTORS® Code.

### **Understanding the Code: Recurrent Terms and Concepts**

The Code consists of sixteen (16) Principles, each of which has several Standards of Practice associated with it. The Standards of Practice discuss specific applications, limits or exceptions to the Principle. The descriptive titles are for convenience only and do not themselves constitute interpretations or impose obligations.

The Code Principles and Standards are drafted using certain phrases or terms that are sometimes repeated and involve important concepts. Several of these are discussed here to assist Adherents in understanding the requirements of provisions in which these phrases are used, while avoiding the burdensome repetition that would result from describing them each time they appear. Reference may be made to the following paragraphs discussing such terms (thereby partially defining them) during the process of Code interpretation or enforcement.

### **Relationship Parties**

The Principles and Standards of Practice establish a group of duties and related requirements, such as to undertake or to refrain from specified conduct or activities, to make disclosures, to withhold disclosures, to obtain acknowledgments or to obtain consents.

The words "client, customer, principal, or other party with whom the Adherent has a legally recognized professional or business relationship," or somewhat shortened forms of that language having the same intended meaning, are used frequently to describe the individuals or business entities to whom such duties are owed.

The breadth of this language in part reflects the changing and diverse activities of today's commercial practitioners, which place them in a wide variety of real estate-related professional or business roles and relationships, all of which the Code is intended to encompass.

The breadth of the clause also is intended to reflect the affirmative objective of the Code that Adherents will behave in a principled manner toward numerous parties, including but not limited to those who will be the source of their compensation. Some duties are owed to fewer than all participants in a transaction or activity, but others, chiefly the duty of honesty, are owed to virtually every party.

### **Party to an Act**

Several provisions require that Adherents not "be a party to" an act of a specified type or having specified consequences. The obligation not to "be a party to" prohibited conduct is intended to be a broad obligation. First, it requires that Adherents not perform such an act or engage in such conduct themselves. Second, it requires that Adherents neither request others to perform prohibited acts nor assist others in their performing prohibited acts. Third, an Adherent has a duty not to ignore prohibited conduct by other Adherents, even where the observing Adherent has no control over the commission of the act. The third dimension of "party to" meshes directly with the Adherents' obligation established under Principle 15 and Standard of Practice 15.4 to report to SIOR potential violations of which they have first hand knowledge.

### **Pertinent Facts**

Several provisions impose obligations with respect to "pertinent facts," or "pertinent facts and information," often in the context of requiring their communication or disclosure to one or more parties. The precise meaning of these terms cannot be set forth in the abstract, and may vary significantly depending on the nature of a particular professional or business scenario. Use of the word "pertinent" does reflect use of that term in the REALTORS® Code of Ethics, and SIOR anticipates that the word will be given a consistent interpretation in the application of its Code.

Certain legal requirements are framed in terms of "material" facts. Where a fact is legally "material," it typically will also be "pertinent" within the meaning of SIOR's Code. References to pertinent facts sometimes are accompanied by references to "any facts, conditions, or information that might affect or assist" a relationship party. The latter is intended to be an even broader category, including matters that might be viewed as pertinent or which only have some probability of becoming pertinent.

# **CODE OF ETHICAL PRINCIPLES AND STANDARDS OF PROFESSIONAL PRACTICE**

## **Principle 1 – Act in the Best Interest of Those Who Should Benefit from Your Conduct**

Adherents will act in the best interest of their client, customer, principal, or other party with whom the Adherent has a legally recognized professional or business relationship. Adherents will subordinate pursuit of their own self-interest to the best interest of such other parties in circumstances where those two interests may conflict.

### **Standard of Practice 1.1 – Understand Your Legal and Ethical Duties**

When acting in a real estate-related professional or business matter, Adherents will understand their legal and ethical duties, and will conform their actions to these duties.

### **Standard of Practice 1.2 – Honor the Commitments You Make and Faithfully Fulfill Your Obligations**

When acting in a real estate-related professional or business matter, Adherents will honor the legal, contractual, and ethical commitments they have made, and will not unreasonably withhold, delay, or condition the faithful fulfillment of their obligations.

### **Standard of Practice 1.3 – Code Applies to All Real Estate-Related Professional and Business Dealings**

Regardless of the capacity in which an Adherent is acting (i.e., as an agent, subagent, broker, finder, facilitator, counselor, advisor, manager, or principal), Adherents are obligated to conduct themselves in accordance with the requirements of this Code. If an Adherent is engaged in a real estate-related professional or business activity that is conducted by, through, or in conjunction with an employee, subordinate, colleague, or associate, the conduct of such other persons who are under the direction or are otherwise acting at the request of or in conjunction with the Adherent must conform to the requirements of this Code. Additionally, the Adherent will promote understanding of the Code and advocate behavior that conforms to the Code by persons who are within the Adherent's sphere of influence. As to certain types of activities, this Code incorporates by reference Codes adopted by other real estate-related professional organizations. In those circumstances, the specific standards of conduct specified by the referenced Code govern the Adherent's conduct.

### **Standard of Practice 1.4 – Avoid Dishonest Conduct**

Adherents will not engage in any conduct that: (a) dishonestly advantages any party with whom the Adherent has a legally recognized professional or business relationship; (b) dishonestly disadvantages any party with whom the Adherent has a legally recognized professional or business relationship; (c) dishonestly interferes with the rights or interests of any party with whom the Adherent has a legally recognized professional or business relationship; or (d) dishonestly enriches the Adherent or others at the expense of any party with whom the Adherent has a legally recognized professional or business relationship.

### **Standard of Practice 1.5 – Avoid Misuse of Authority**

Adherents will not dishonestly use any position as a corporate officer or director, public official, or other figure of authority: (a) to their own personal advantage; (b) to the advantage of their business colleagues or associates; (c) to the advantage or to the disadvantage of any client, customer, or other party with whom they have a legally recognized professional or business relationship; (d) to the disadvantage of a competitor; or (e) in any way that could potentially cause harm or liability to the company, public body, or any entity to which they owe legal, fiduciary, and/or ethical duties.

### **Standard of Practice 1.6 – Secure Informed Consent First**

Adherents will not take any substantial action on behalf of a client, customer, principal, or other party with whom they have a legally recognized professional or business relationship without first obtaining the informed consent of such party as to the nature, objectives and expected consequences of the action. While this requirement is intended to foster a regime of knowledgeable supervision, it is not intended to require that Adherents be "micro-managed."

### **Standard of Practice 1.7 – Function Competitively**

The commercial real estate profession is a competitive business, and numerous laws seek to assure the benefits of competitive markets to all participants. Adherents are expected to compete among themselves and with other real estate professionals. This Code imposes no ethical injunction intended to unlawfully: (a) impair or impede such competition; (b) limit the lawful types of services or activities in which Adherents may engage; (c) set the compensation rates or terms that Adherents may charge or receive; or (d) prohibit current or potential clients, customers, principals, or other parties from selecting the real estate professional(s) from whom to procure the services they desire.

## **Principle 2 – Be Honest at All Times and with All Parties**

Adherents will be honest at all times with all parties including but not limited to parties with whom they have a legally recognized professional or business relationship.

### **Standard of Practice 2.1 – Avoid Exaggeration, Misrepresentation, Withholding, or Concealment of Pertinent Facts**

Adherents will avoid exaggeration, misrepresentation, withholding, or concealment of pertinent facts relating to a property, transaction, or matter in which they are involved in a professional or business capacity.

### **Standard of Practice 2.2 – Provide Requested Information**

Adherents will timely provide information that is reasonably requested by a client, customer, principal, or other party having an interest in a property, transaction, or matter, unless the provision of such information would violate the Adherent's duty of confidentiality, or unless the provision of such information is excepted under Standard of Practice 2.3.

### **Standard of Practice 2.3 – Excepted Undertakings and Disclosures**

Adherents are not expected (a) to discover, disclose, or advise on matters or adverse conditions that require special expertise or a technical discipline outside of the legal requirements of their professional license, (b) to disclose factors that are defined as nonmaterial by law or regulation, or (c) to provide information where doing so would violate a specifically applicable legal obligation.

### **Standard of Practice 2.4 – Certain Dishonest Acts to Be Avoided**

Adherents will not be a party to any act that: (a) involves the knowing falsification of information; (b) attempts to deceive; (c) attempts to defraud; (d) attempts to mislead; or (e) involves a breach of faith, trust, or fiduciary duty.

## **Principle 3 – Honor Your Fiduciary Duties**

Adherents will fulfill, without breach, the fiduciary duties of loyalty, obedience, disclosure, confidentiality, good faith, due care, and accounting that they owe to their client, customer, principal, or other party with whom they have a legally recognized professional or business relationship.

### **Standard of Practice 3.1 – Duty of Loyalty**

Adherents will be loyal to their client, customer, principal, or other party with whom they have a legally recognized professional or business relationship, and will faithfully conform their actions to the interests, needs, and objectives of such party or parties.

### **Standard of Practice 3.2 – Duty of Obedience**

Adherents will be obedient to their client, customer, principal, or other party with whom they have a legally recognized professional or business relationship, and will conform their actions to the instructions, directions, and objectives of such party or parties. However, Adherents will not conduct themselves in a way that violates any legal or ethical duty or obligation that they owe to any other party.

### **Standard of Practice 3.3 – Duty of Disclosure**

Adherents will disclose all pertinent facts and information to their client, customer, principal, or other party with whom they have a legally recognized professional or business relationship. Such required disclosures include, but are not limited to, those mandated by law. In addition, Adherents will keep each relationship party reasonably informed of any facts, conditions, or information that might affect or assist such party.

### **Standard of Practice 3.4 – Duty of Confidentiality**

Adherents will maintain the confidentiality of information that concerns their client, customer, principal, or other party with whom they have a legally recognized professional or business relationship, and will not knowingly, during or following the termination of a real estate-related professional or business relationship: (a) reveal confidential information of or about such party; (b) use confidential information of or about such party to the disadvantage of the party; (c) use confidential information of or about such party to the Adherent's advantage; or (d) use confidential information of or about such party to the advantage of any other party, including, without limitation, to: (i) other clients, customers, or principals with whom the Adherent has a legally recognized professional or business relationship, (ii) the Adherent's colleagues and associates, and (iii) the Adherent's friends and family relations. The only exceptions to an Adherent's absolute duty of confidentiality are: (a) the transmission of confidential information after disclosure to and approval from all affected parties; (b) the transmission of information in the context of a legal proceeding pursuant to a court order, (c) where the transmission of confidential information is believed by the Adherent to be

required to prevent the commission of a crime; or (d) where the use or transmission of confidential information is required to defend the Adherent or the Adherent's employees or associates against accusations of wrongful conduct.

#### **Standard of Practice 3.5 – Duty of Good Faith and Due Care**

Adherents will exercise good faith and due care in actions affecting their client, customer, principal, or other party with whom they have a legally recognized professional or business relationship, and will conduct themselves in a manner consistent with the confidence, trust, and reasonable expectations of such party.

#### **Standard of Practice 3.6 – Duty of Accounting**

Adherents will provide their client, customer, principal, or other party with whom they have a legally recognized professional or business relationship with a true, complete, timely, and accurate accounting of all financial facts and information. Adherents will not seek to deny, hinder, or obstruct such party's access to such financial facts and information. Adherents have an affirmative duty to provide such financial facts and information to such party.

#### **Principle 4 – Be Sensitive to Potential Conflicts of Interest**

In situations involving a potential for conflict of interest, Adherents will subordinate their interests to the interests of their client, customer, principal, or other party with whom they have a legally recognized professional or business relationship.

#### **Standard of Practice 4.1 – Client's Interests Come First**

Adherents will not place their rights in, or entitlement to, a fee or commission before the interests of their client, customer, principal, or other party with whom they have a legally recognized professional or business relationship. This does not mean that Adherents must forgo their claim to compensation to which they are legally entitled. However, Adherents must not allow their entitlement to compensation to take precedence over the interests of such parties in their conduct.

#### **Standard of Practice 4.2 – Non-Interference with Client's Rights and Interests**

Adherents will not take any action to obstruct or impede the rights or interests of their client, customer, principal, or other party with whom they have a legally recognized professional or business relationship.

#### **Standard of Practice 4.3 – Permitted Exceptions**

Adherents may represent owners, buyers, tenants, or other parties that may have competing interests. Adherents may buy, own, and develop real estate for their own account. Adherents may also charge and earn fees for the services they provide on behalf of clients, customers, principals, or other parties. However, to the extent that any activity in which an Adherent may engage has the appearance of a potential conflict, the Adherent will make proper disclosures to and seek to obtain the acknowledgment of those parties with whom a conflict may arise. In the event any of those parties acknowledges the disclosure but objects to an Adherent's continuing with the activity that involves the appearance of conflict, then the Adherent will refrain from doing so.

#### **Principle 5 – Disclose and Obtain Approval for Self-Dealing**

Adherents will not engage in any activity that may be deemed to constitute self-dealing without disclosure to and approval from all affected parties.

#### **Standard of Practice 5.1 – Disclosure of Interest**

Adherents will not provide real estate-related professional services to any affected party when they have a present or contemplated interest in a property that is the subject of an assignment or transaction, without making prior disclosure of such interest to all affected parties and receiving prior approval from all affected parties.

#### **Standard of Practice 5.2 – Acquisition of Ownership Interest**

Adherents will not acquire an interest in a property or present offers from themselves, any person with whom they have a familial relationship, their firm or any members of their firm, any person with whom they are involved in a business venture, or any entity in which they have a present or contemplated interest, without disclosing their true position to all affected parties prior to the commencement of negotiations.

#### **Standard of Practice 5.3 – Professional Services for Owned Properties**

Adherents will not provide real estate-related professional services for a property in which they have a beneficial interest without first obtaining approval for such activities, including, without limitation, an agreement regarding compensation and costs with the other parties who also have a beneficial interest in such property.

#### **Standard of Practice 5.4 – Rebates from Expenditures Made for Client**

Adherents will not accept any commission, rebate, or profit on expenditures they make for goods or services that are obtained for or provided to their client, customer, principal, or other party with whom they have a legally recognized professional or business relationship without making prior disclosure to and receiving prior approval of such party.

#### **Standard of Practice 5.5 – Unearned Compensation**

Adherents will not accept commissions, fees, or other non-nominal benefits from the vendors or providers of goods or services purchased by a client, customer, principal, or other party with whom they have a legally recognized professional or business relationship, without making prior disclosure to and receiving prior approval of the party making such purchase.

#### **Standard of Practice 5.6 – Undisclosed Participation**

Adherents will not provide ancillary real estate-related services (such as property maintenance, construction, or environmental remediation) to a client, customer, principal, or other party with whom they have a legally recognized professional or business relationship, through a business or enterprise in which they have a beneficial interest or from which they receive compensation or other benefits, without making prior disclosure to and receiving prior approval of all affected parties.

#### **Standard of Practice 5.7 – Undisclosed Compensation**

Adherents will not accept compensation from more than one party in a transaction, even if permitted by law, without making prior disclosure to and receiving prior approval from all affected parties.

#### **Principle 6 – Document All Agreements and Keep Accurate Records**

Adherents will use reasonable diligence to assure that all offers, contracts, agreements, understandings, disclosures, acknowledgments, approvals and consents are properly documented, transmitted to and acknowledged by all affected parties, and that the specific terms, conditions, obligations, commitments, and understandings of the parties are clearly and fully articulated. Adherents will use reasonable diligence to assure that complete and accurate records of all real estate-related professional assignments and business dealings in which they are engaged are properly assembled and maintained for an adequate period of time.

#### **Standard of Practice 6.1 – Types of Agreements**

The agreements and related communications intended to be covered by this obligation to document include, but are not limited to: listing agreements, agreements of sale, lease agreements, offers to buy or lease, letters of intent, notices, financing agreements, extensions of contracts, compensation agreements, offers to and acknowledgments of terms of cooperation with other real estate professionals, offers to and acknowledgments of terms of compensation with other real estate professionals, partnership agreements, management agreements, referral agreements, and other contracts and substantial communications that are reasonably expected or required in any transaction, assignment, or real estate-related business or professional matter.

#### **Standard of Practice 6.2 – Copies to All Parties**

Adherents will use reasonable diligence to assure that a copy of each document is provided to each party to an agreement at the time of its execution, acceptance, or acknowledgment, and thereafter upon the reasonable request of any party having a direct interest in the terms arising from such document.

#### **Standard of Practice 6.3 – False Consideration**

Adherents will not be party to the naming of a false consideration in any document, unless it is the naming of an obviously nominal consideration.

#### **Standard of Practice 6.4 – Scope and Duration of Record Retention**

The types of records intended to be covered by the obligation to assemble records include, but are not limited to: correspondence, notices, financial records, bank statements and records, tax-related records, legal records, and corporate and partnership records. The period of time for which these records must be maintained is intended to be no less than the period required by law. Adherents are obligated to determine (a) the specific types of records that they are required to maintain and (b) the specific period of time that they are legally required to maintain such records. The time period of retention should, at minimum, be long enough to ensure that the relevant records are available for use in SIOR ethics or arbitration proceedings.

#### **Standard of Practice 6.5 – Availability and Copies of Records**

Adherents will make the records that they are obligated to maintain available for the reasonable inspection of any party having a direct interest in such records, and, upon reasonable request, will provide copies of such records to such parties.

#### **Standard of Practice 6.6 – Avoid Falsification of Information**

Adherents will not be a party to the knowing falsification of information in any document or business record.



## **Principle 7 – Do Not Discriminate**

Adherents will not discriminate, or participate in any plan or agreement to discriminate, on the basis of race, creed, color, religion, gender, handicap, national origin, familial status, age, sexual orientation or any other category or characteristic defined as discriminatory by law.

### **Standard of Practice 7.1 – Demographic Reports**

Adherents may provide demographic information (related to a property, transaction or assignment) to a client, customer, principal, or other party with whom they have a legally recognized professional or business relationship, if such demographic information is (a) needed to assist with or complete in a non-discriminatory manner a real estate transaction or professional assignment; (b) is obtained or derived from a recognized, reliable, independent, and impartial source; and (c) the source of such information and any additions, deletions, modifications, interpretations, or other changes are disclosed in reasonable detail.

### **Standard of Practice 7.2 – Credit and Financial Reports**

Adherents may provide credit or financial information (concerning, as may be applicable, a prospective buyer, tenant, landlord, etc.) to a client, customer, principal, or other party with whom they have a legally recognized professional or business relationship, if such information is (a) needed to assist with or complete in a non-discriminatory manner a real estate transaction or professional assignment; (b) is obtained or derived from a recognized, reliable, independent, and impartial source; and (c) the source of such information and any additions, deletions, modifications, interpretations, or other changes are disclosed in reasonable detail.

## **Principle 8 – Obey the Law**

Adherents will conform their real estate-related professional and business conduct to all applicable principles and requirements of law.

### **Standard of Practice 8.1 – Licensing Requirements**

Adherents will conduct themselves in accordance with the requirements of the licensing authority in any jurisdiction in which they conduct business.

### **Standard of Practice 8.2 – Commingling of Funds**

Adherents will maintain funds belonging to clients, customers, or other parties in escrow, fiduciary, or trust accounts, and will not commingle the funds of others with their own personal or business funds. Adherents will administer such accounts either: (1) in the manner agreed to, or as otherwise directed, by the appropriate parties; (2) as provided by law or regulation; or (3) in the absence of such guidance, in a manner that will protect such funds from losses and yield a reasonably favorable interest rate of return for the benefit of the appropriate parties.

### **Standard of Practice 8.3 – Use or Conversion of Funds or Assets**

Adherents will not access, use, apply, or convert the funds, property, or assets belonging to a client, customer, principal, or other party with whom they have a legally recognized professional or business relationship in any way that is inconsistent with the rights or interests of such party.

### **Standard of Practice 8.4 – Unauthorized Practice of Law**

Adherents will not engage in activities that constitute the unauthorized practice of law, and will recommend that legal counsel be engaged whenever Adherents believe that the interest of any party requires it.

### **Standard of Practice 8.5 – Activities Requiring Professional Licenses**

Adherents will not engage in activities for which a professional license is required unless they have such a license, and will, whenever Adherents believe that the interest of any party requires it, recommend the engagement of a properly licensed professional when they do not have such a license.

## **Principle 9 – Other Codes Govern Certain Activities**

In addition to all applicable legal requirements, Adherents will conform their real estate-related professional and business conduct to the ethical and Professional Standards that are reasonably expected in the specific disciplines in which they engage.

### **Standard of Practice 9.1 – Commercial Real Estate**

The practices of Adherents of SIOR who engage in industrial, office, retail, investment, and other commercial real estate activities will, with respect to such activities, conform to this Code.

### **Standard of Practice 9.2 – Residential Real Estate**

The practices of Adherents who engage in residential real estate activities will, with respect to such activities, conform to the Code of Ethics and Standards of Practice of the NATIONAL ASSOCIATION OF REALTORS®.

### **Standard of Practice 9.3 – Appraisal and Valuation**

The practices of Adherents who engage in appraisal activities or the valuation of real property will, with respect to such activities, conform to the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation. This requirement will not apply to a broker's pricing opinion, a broker's opinion of value, or to pricing opinions that are incidental to the listing, sale, or lease of a property.

### **Standard of Practice 9.4 – Property and Asset Management**

The practices of Adherents who engage in the management of real estate will, with respect to such activities, conform to the Code of Professional Ethics of the Institute of Real Estate Management (IREM), and will be conducted: (a) with due regard for the rights, responsibilities, benefits, safety, and health of tenants and others lawfully on the premises; and (b) with due diligence and reasonable efforts to protect the property and all affected parties from reasonably foreseeable contingencies and losses.

### **Standard of Practice 9.5 – Counseling**

The practices of Adherents who engage in real estate counseling and advisory services which do not include real estate brokerage, with respect to such activities, shall conform to the Standards of Professional Practice of the Counselors of Real Estate (CRE), the counseling affiliate of the NATIONAL ASSOCIATION OF REALTORS®. Any fee or compensation for such counseling or advisory services will not be conditioned or contingent on the substance of the advice or counsel given. If counseling or advisory services are provided in addition to other professional services, the compensation for such other services must be agreed upon separately.

### **Principle 10 – Be Truthful in All Representations and Advertising**

Adherents will present a true picture in all real estate-related representations and advertising, and will clearly identify their professional role and/or business interest in the matter being communicated or promoted.

#### **Standard of Practice 10.1 – Authority to Advertise or Make Representations**

Adherents will not advertise or promote a property, assignment, or requirement, or make any other representations about a property, assignment, or requirement, without the authority of their client, customer, principal, or other party with whom the Adherent has a legally recognized professional or business relationship.

#### **Standard of Practice 10.2 – Proper Identification of Role and Professional Status in Advertising and Promotional Material**

Adherents will identify, with reasonable clarity, in their advertising and promotional material: (a) the name of the firm through which they are licensed to practice; (b) the capacity in which they are working (e.g., as the owner's exclusive agent, as the tenant's exclusive agent, as the manager of the property, as an owner of the property, etc.); and (c) whether they, or any member of their firm, or any person with whom they have a familial relationship, have an interest in the property or other relationship as a principal with the matter.

#### **Standard of Practice 10.3 – Honest, Accurate and Complete Representations**

Unless such representations conflict with the legal or ethical duties that Adherents owe to a client, customer, principal, or other party with whom they have a legally recognized professional or business relationship (such as their duty of confidentiality to a client), the representations that Adherents make in the context of real estate-related professional and business activities will be honest, accurate, and complete. Adherents will identify, with reasonable clarity, information that is subjective, speculative, or otherwise conditioned on facts or circumstances that are not known. Adherents will clearly identify the source or basis of all empirical information. Adherents will not withhold pertinent facts and information of which they are aware, and will keep each relationship party reasonably informed of any facts, conditions, or information that might affect or assist such party.

#### **Standard of Practice 10.4 – Professional Credentials**

Adherents (a) who are Active designees will identify themselves as SIORs in accordance with SIOR's policies in their advertising and representations; (b) if they choose or are required to, will identify accurately any other professional affiliation or designation which they possess; (c) will not make inaccurate, exaggerated, or misleading representations about their professional experience, capabilities, credentials, or expertise; and (d) will not make inaccurate, exaggerated, or misleading representations about the professional experience, capabilities, credentials, or expertise of their firm, or of others with whom they are affiliated.

#### **Standard of Practice 10.5 – “Free of Charge” Services**

Adherents will not promote or offer a service described as “free of charge” (or words to that effect) unless they simultaneously disclose: (1) their expectation, if any, of a commission, fee or other benefit (such as a listing or other assignment); and (2) the source of such expected commission, fee or other benefit.

#### **Standard of Practice 10.6 – Premiums and Prizes**

Adherents will exercise reasonable care and candor when offering premiums, prizes, or other inducements or benefits in any promotion, advertising, or representation. Any such offer should not mislead any party interested in receiving or otherwise benefiting from the offer. The terms, conditions, and limitations of such offer must be clearly articulated in advance.

#### **Principle 11 – Do Not Make False or Misleading Statements about Others**

Adherents will not knowingly or recklessly make any false or misleading statement about their competitors, their competitors’ firms, or their clients, customers, principals, or other parties with whom they have a legally recognized professional or business relationship.

#### **Standard of Practice 11.1 – Unsolicited Comments**

Adherents will refrain from making unsolicited comments about their competitors, their competitors’ firms, or their clients, customers, principals, or other parties with whom they have a legally recognized professional or business relationship.

#### **Standard of Practice 11.2 – Objective Opinion**

In instances where their opinion about a competitor, a competitor’s firm, or a client, customer, principal, or other party with whom they have a legally recognized professional or business relationship is sought, or where they believe that such opinion is required, Adherents will render such opinion in an impartial and objective manner. Where needed to avoid misinterpretation of the opinion or its significance, the presentation should include a description of the basis for the opinion.

#### **Principle 12 – Disclose the Nature of Your Relationship**

Adherents may represent a client, principal, customer, or other party in any capacity permitted by law, but must reasonably advise the affected parties about the professional implications of serving in that capacity.

#### **Standard of Practice 12.1 – Pre-engagement Disclosures**

As early as commercially practical and before performing real estate-related services for a client, customer, principal, or other party with whom they have a legally recognized professional or business relationship, an Adherent will, to the extent that such disclosures apply to the nature of the assignment, advise such party of (a) the nature of the agency or non-agency relationship in which they will be involved; (b) the pertinent facts and information regarding the Adherent’s compensation; (c) the policy of the Adherent’s firm regarding cooperation with and compensation of other real estate professionals; (d) the nature and professional implications of possible relationships with other real estate professionals (such as subagency), including reasonably foreseeable compensation issues that may arise; and (e) if there is any potential for the Adherent or the Adherent’s firm to become involved in representational conflicts, such as dual agency, and the manner in which such conflicts may be resolved.

#### **Standard of Practice 12.2 – Preexisting Obligations**

As early as commercially practical in the context of providing real estate-related services for a client, customer, principal, or other party with whom they have a legally recognized professional or business relationship, and to the extent applicable to the nature of a specific assignment, Adherents will use reasonable efforts to determine if any other real estate professional has a prior right or interest arising from the same property or a relevant prior agreement or relationship. Adherents will not subject a client, customer, principal, or other party with whom they have a legally recognized professional or business relationship to any obligation to pay additional compensation related to such prior existing right without first obtaining such party’s informed consent.

#### **Principle 13 – Offer to Cooperate with and Compensate Other Real Estate Professionals**

Adherents will cooperate with other real estate professionals except when cooperation is not in the best interests of their client, customer, principal, or other party with whom they have a legally recognized professional or business relationship. The obligation to cooperate with other real estate professionals is not an obligation to share commissions or fees, or to otherwise compensate other real estate professionals. Where consistent with the best interests of and authority granted by their client, customer, principal, or other party with whom they have a legally recognized professional or business relationship, Adherents will, when appropriate, offer compensation to other real estate professionals and will timely disclose the terms and conditions related to the compensation offered.

#### **Standard of Practice 13.1 – Terms of Cooperation**

Adherents have the right to establish the terms and conditions by which they will cooperate with other real estate professionals, and will (a) disclose these terms and conditions to their client, customer, principal, or other party with whom they have a legally recognized professional or business relationship as soon as commercially practical when seeking authority to perform any real estate-related services on behalf of such party (which shall always be prior to consummation of a binding agreement); and (b) articulate these terms and conditions to other real estate professionals when soliciting their cooperation or upon inquiry from any real estate professional seeking cooperation.

#### **Standard of Practice 13.2 – Terms of Compensation**

Adherents have the right to establish the terms and conditions by which they will compensate other real estate professionals, and will (a) disclose these terms and conditions to their client, customer, principal, or other party with whom they have a legally recognized professional or business relationship as soon as commercially practical when seeking authority to perform any real estate-related services on behalf of such party; and (b) articulate these terms and conditions to other real estate professionals when soliciting their cooperation or upon inquiry from any real estate professional seeking cooperation and/or compensation.

#### **Standard of Practice 13.3 – Seeking Cooperation or Compensation**

Adherents who are seeking to cooperate with or to be compensated by another real estate professional will determine the terms of cooperation and/or compensation as soon as commercially practical in the context of providing real estate-related services for a client, customer, principal, or other party with whom they have a legally recognized professional or business relationship. Adherents will not assume that another real estate professional's offer of cooperation is an offer of compensation.

#### **Standard of Practice 13.4 – Changes in Terms of Cooperation or Compensation**

Adherents who have made an offer to cooperate with and/or an offer to compensate other real estate professionals have an affirmative obligation to promptly communicate any change in the terms of cooperation or compensation to any parties to whom the previous terms were previously offered.

#### **Standard of Practice 13.5 – Negotiations to Change Terms of Cooperation or Compensation**

Offers to cooperate and/or offers to compensate other real estate professionals, unless accepted, will not preclude Adherents from negotiating, in good faith, agreements that deviate from such terms. Further, even after the terms of cooperation and/or compensation have been offered and accepted, Adherents may negotiate, in good faith, for a change in such terms.

### **Principle 14 – Do Not Interfere with the Relationships or Rights of Other Real Estate Professionals**

Adherents will respect the agency or other exclusive relationships, recognized by law, of other real estate professionals, and will not engage in any practice or take any action that is inconsistent with such relationships or rights.

#### **Standard of Practice 14.1 – Abandonment**

Adherents will not attempt to represent a party in an ongoing transaction or assignment in which another real estate professional has been representing such party, unless it is first determined through direct inquiry to all affected parties that the transaction or assignment has been abandoned by such other real estate professional.

#### **Standard of Practice 14.2 – Alienation and Estrangement**

Adherents will not attempt to represent a party in an ongoing transaction or assignment in which another real estate professional has been representing such party, unless it is first determined through direct inquiry to all affected parties that such other real estate professional, although retaining related rights to compensation, has become so alienated or estranged from such transaction or assignment as to no longer be operative in it. However, Adherents may not be a cause of, or a party to, the alienation or estrangement of another real estate professional involved in an ongoing transaction or assignment.

#### **Standard of Practice 14.3 – Termination**

Adherents may represent a party in an ongoing transaction or assignment in which another real estate professional has been involved, if it is first determined that such other real estate professional's representational role in the transaction or assignment has been terminated. However, Adherents may not be a cause of, or a party to, the termination of such other real estate professional's representational role in such ongoing transaction or assignment.

#### **Standard of Practice 14.4 – No Other Exceptions**

Adherents will not represent a party in an ongoing transaction or assignment in which another real estate professional has been representing such party, if the other real estate professional has not abandoned such transaction or assignment, has not been alienated or estranged from such transaction or assignment, or has not been terminated from such transaction or assignment.

#### **Standard of Practice 14.5 – Compensation Rights**

If Adherents are engaged to represent a party in an ongoing transaction or assignment, they will not take any action inconsistent with the compensation rights of other real estate professionals who may have been or may be representing any party to such transaction or assignment.

### **Principle 15 – Cooperate in All Professional Standards Proceedings**

Adherents will cooperate with any professional standards investigation or proceeding, and will take no action to impede or disrupt such investigation or proceeding.

#### **Standard of Practice 15.1 – Pertinent Facts**

Adherents who are involved in a professional standards proceeding as a party or as a witness will: (a) produce all requested documents, information, and other potential evidence; (b) place all pertinent facts before the proper committees or tribunals; and (c) testify fully and truthfully about the matter.

#### **Standard of Practice 15.2 – Proceedings before Other Boards**

In addition to proceedings before SIOR, Adherents may be subject to Professional Standards investigations or proceedings in which issues of professional conduct have been finally adjudicated before other professional Boards or Associations on matters related to the same transaction or event. Adherents are required to advise SIOR if they are named as a respondent party in any other Professional Standards proceeding in which issues of professional conduct have been finally adjudicated. The advisory to SIOR must be made promptly after they receive notice of the final disposition of such Professional Standards matter from another Board or Association. SIOR may then investigate such matter, and may initiate professional standards proceedings in accordance with its policies and procedures.

#### **Standard of Practice 15.3 – Proceedings before Licensing Authorities, Regulatory Authorities, or Courts**

In addition to proceedings before SIOR, Adherents may be subject to investigations or proceedings before real estate licensing authorities or regulatory authorities, or may be subject to civil or criminal judicial proceedings on matters related to the same transaction or event. Adherents are required to advise SIOR if they are named as a respondent party in any licensing or regulatory proceeding, or as a defendant in any judicial proceeding, in which issues of professional conduct have been finally adjudicated. The advisory to SIOR must be made promptly after they receive notice of the final disposition of such proceeding from a real estate licensing authority, regulatory authority, or court. SIOR may then investigate such matter, and may initiate professional standards proceedings in accordance with its policies and procedures.

#### **Standard of Practice 15.4 – Duty to Report Potential Violations**

Adherents having first hand knowledge of the potential violation of this Code by another Adherent are required to promptly report any such potential violation to SIOR. SIOR may investigate such matter, and may initiate professional standards proceedings in accordance with its policies and procedures.

#### **Standard of Practice 15.5 – Obstruction of Proceedings**

Adherents who are involved in a professional standards matter as a party or as a witness will not: (a) hinder or obstruct any professional standards process or proceeding; or (b) institute or threaten to institute any action for libel, slander, or defamation against any party involved in such professional standards matter. Adherents expressly waive any cause of action for libel, slander, or defamation that might arise from the filing or consideration of any professional standards matter before SIOR in which they may be a participant.

#### **Standard of Practice 15.6 – Confidentiality of Proceedings**

Adherents will not discuss, disclose, or disseminate any information regarding the allegations, findings, or decisions of any professional standards matter, except as authorized by SIOR.

#### **Standard of Practice 15.7 – Multiple Filings**

Adherents will not file multiple or repetitive complaints against the same party that are based upon the same transaction or event. This does not preclude Adherents from amending a complaint after it has been filed to expand the allegations or scope of a complaint, or from filing a new complaint if new facts or information become known or available.

### **Principle 16 – Resolve Financial Disputes through Mediation and/or Arbitration**

Unless all affected parties agree otherwise, Adherents are required to resolve compensation and related financial disputes that arise from their real estate-related professional and business activities through mediation and/or binding arbitration. Further, unless the disputes involve claims that extend substantially beyond a disagreement over compensation or the fulfillment of the terms of a contract (such as allegations of unlawful conduct), Adherents will not litigate such disputes.

**Standard of Practice 16.1 – Disputes between Adherents**

In the event two or more Adherents, who are employed by different firms, claim a right, entitlement, or interest in a fee or commission arising from or related to the same real estate transaction, the Adherents will submit such dispute to mediation and/or binding arbitration in accordance with the policies and procedures of SIOR.

**Standard of Practice 16.2 – Financial Disputes with Clients, Customers, or Principals**

If a client, customer, principal, or other party with whom an Adherent has a legally recognized professional or business relationship wishes to resolve a real estate-related financial dispute that arises from such professional or business relationship through mediation or arbitration, and such party agrees to be bound by the resulting decision, such dispute will be submitted to mediation and/or binding arbitration in accordance with the policies and procedures of SIOR.

**Standard of Practice 16.3 – Financial Disputes with Non-Adherent Real Estate Professionals**

If Adherents become involved in financial disputes with non-Adherent real estate professionals of other firms arising from real estate-related activities, Adherents are obligated to submit such disputes to mediation and/or binding arbitration. Such mediation and/or binding arbitration may be conducted, in accordance with the request of the non-Adherent: (a) through SIOR (provided the non-Adherent agrees to be bound by the arbitration decision); (b) through a local Board or State Association (provided (i) the non-Adherent is obligated to submit the dispute to mediation and/or arbitration and (ii) alternative dispute resolution facilities are available through the local Board or State Association); or (c) through other alternative dispute resolution sources (provided the non-Adherent is obligated or agrees to be bound by the arbitration decision).

**Standard of Practice 16.4 – SIOR Prefers Alternative Dispute Resolution to Litigation**

If Adherents become involved in financial disputes that do not otherwise conform to the Standards of Practice under this Principle, Adherents are obligated to recommend, seek, and agree to be bound by alternative dispute resolution procedures that are available through the American Arbitration Association and other recognized providers. To the greatest extent reasonably possible, Adherents will specify alternative dispute resolution preferences in the contracts and agreements that they employ in their real estate-related professional and business activities.

## **Filing an Application Ethics Complaint**

Any SIOR member who believes that an applicant should be refused admission to SIOR because of ethical misconduct may file a complaint with the Professional Standards Committee.

### **What are the grounds for denying admission to SIOR?**

The SIOR Bylaws state that applicants for Active membership must have a satisfactory real estate-related business reputation, and specify that an application will be denied under this standard only for serious offenses, such as falsifying information on the application, conviction of a felony, revocation of professional license, or a pattern of professional misconduct that would result in suspension or expulsion of an SIOR member. See the Application Ethics Complaint Form for specific reasons for denying an application.

### **How do I file an application ethics complaint?**

- A completed Application Ethics Complaint Form (see attached), along with a statement outlining specific allegations of misconduct by the Applicant, should be submitted to the Chair of SIOR's Professional Standards Committee.
- The Professional Standards Committee Chair forms an inquiry panel to determine if the alleged conduct would, if proven, warrant suspension or expulsion if engaged in by an Active member.
- If the inquiry panel concludes that a hearing is warranted, the applicant is notified of the complaint(s) against him/her, and given the option of either participating a hearing to determine the facts or withdrawing his/her application.
- Hearings are normally held at the time of SIOR's semi-annual conferences (at a private location on-site).

### **Where do I send a completed complaint form?**

The completed form, and accompanying documentation, should be sent to SIOR Headquarters, 1201 New York Avenue NW, Ste. 350, Washington, DC, 20005, At: Professional Standards Staff Liaison, who will transmit it to the Chair of the SIOR Professional Standards Committee. All submissions are treated as highly confidential, and the applicant is not notified of the originator or the substance of a complaint unless and until it is determined that the complaint warrants a hearing.

### **What happens to the application after a complaint is submitted?**

If, and when, a Professional Standards inquiry panel determines a hearing is warranted, no further action is taken on the application until either 1) the applicant opts to withdraw his/her application, or 2) the applicant opts for a hearing; in that case, no action is taken on the application until the outcome of the hearing.

### **What are my obligations if I file a complaint?**

Any member(s) who file(s) an ethics complaint against an Applicant should be prepared to attend and participate in a hearing in the presence of the Applicant if one is scheduled.

**SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®**

**Professional Standards Process**  
 1201 New York Avenue, NW, Suite 350  
 Washington, DC 20005 USA  
 202-449-8200 phone— 202-216-9325 fax

**APPLICATION ETHICS COMPLAINT**

**Please review the attached excerpts from the SIOR Bylaws and Policy Manual before completing this form. Statements as outlined below should be on company letterhead and submitted as attachments to this form.**

To the Professional Standards Committee of the Society of Industrial and Office REALTORS®:

Date Submitted: \_\_\_\_\_ Date Received by SIOR: \_\_\_\_\_

Complainant: \_\_\_\_\_ Chapter \_\_\_\_\_  
*SIOR Member making the complaint.*

Member's Firm \_\_\_\_\_

Applicant: \_\_\_\_\_  
*Subject(s) of the complaint.*

Applicant's Firm: \_\_\_\_\_ Designation Applied for: \_\_\_\_\_

Basis of Complaint:

*Attach a statement on company letterhead outlining the date(s) and details of specific allegations of professional misconduct on the part of the Applicant, along with any available documentation that the Complainant believes should be considered in determining whether the individual should be denied admission to SIOR. Also, please specify which SIOR Ethics Code Principle(s) and/or Standard(s) of Practice pertain to the alleged misconduct. The Code may be accessed on the SIOR Web site: See [www.sior.com/Resources/Ethics and Professional Standards](http://www.sior.com/Resources/Ethics%20and%20Professional%20Standards). Please call SIOR Headquarters at 202.449.8200 and ask to speak with SIOR's Professional Standards staff liaison if you have any questions.*

I have read the attached excerpts from the SIOR Bylaws and Policy Manual, and understand that if there is a hearing, I will be expected to attend and to respond to questions from the Hearing Panel in the presence of the Applicant.

Signature: \_\_\_\_\_

***Note:*** *Any complaints that are submitted will be treated as confidential and will not be shared with the applicant unless and until a Professional Standards inquiry panel has convened and concluded that a hearing is warranted to determine the facts. If the applicant opts for a hearing, the complainant(s) should be prepared to attend and participate in the hearing process.*

**Please submit this form and documentation directly and only to SIOR Headquarters, 1201 New York Avenue NW, Ste. 350, Washington, DC, 20005, Att: Professional Standards Staff Liaison, who will direct it to the Chair of the SIOR Professional Standards Committee.**



## **SIOR Bylaws (Excerpts from Article III, IV, and V)**

**Article III, Section 2.** Applicants for Active membership must have a satisfactory real estate-related business reputation. An application will be denied under this standard only where one or more of the following is found:

- A. The application contains materially false or misleading information or representations;
- B. The applicant has been convicted of or pleaded guilty or nolo contendere to a felony within the preceding ten (10) years;
- C. The applicant has had a professional license suspended or revoked for professional misconduct within the preceding ten (10) years;
- D. The applicant has been suspended or expelled from a Board of REALTORS or other professional association for professional misconduct within the preceding ten (10) years.
- E. The applicant has been involved in arbitration, litigation or other judicial proceedings in which the findings of fact and/or conclusions of law demonstrate conduct by the applicant within the ten (10) years preceding application, that if the applicant was a member of SIOR, could result in suspension or expulsion from SIOR;
- F. The applicant has engaged in conduct during the preceding ten (10) years for which a duly constituted government administrative body, such as a licensing authority, or an independent non-governmental authority, such as another professional association, has issued findings which, if applied to an Active member of SIOR, could result in suspension or expulsion under SIOR's *Code of Ethical Principles and Standards of Professional Practice*; or
- G. The applicant has engaged in a pattern of professional misconduct within the preceding ten (10) years which, if applied to an Active member of SIOR, could result in suspension or expulsion under SIOR's *Code of Ethical Principles and Standards of Professional Practice*.

**Article IV, Section 4.** Any application file containing one or more allegations that the applicant is disqualified from membership under Article III, Section 2. will be transmitted to the Chair of the Professional Standards Committee. The Chair will form a panel of inquiry to review the application file, pointing toward a determination of whether the conduct asserted (or some part of it) would be sufficient, if proven, to warrant suspension or expulsion if engaged in by a member, which determination will be made pursuant to the procedures specified in the SIOR Policy Manual.

**Article V, Section 1.** Any Active or Associate member of SIOR may be reprimanded, suspended or have membership status terminated for sufficient cause by the Board of Directors.

**Article V, Section 2.** Sufficient cause is hereby declared to be any of the following:

- A. Any conviction by a court of competent jurisdiction of insanity, incompetence, felony or fraud;
- B. Revocation of a member's real estate brokerage license;
- C. Violation of the Bylaws or policies of SIOR;
- D. Violations of the Code of Ethical Principles and Standards of Professional Practice of SIOR, or any action or conduct considered by the Board of Directors to be discreditable to SIOR or the profession;
- E. Refusal or willful neglect to comply with any order or decision of the Board of Directors;
- F. No longer meets the criteria for Active or Associate membership;
- G. Nonpayment of national or Chapter dues.

### **SIOR Policy Manual (Section 2.2.6 B)**

#### **B. Complaint Procedures**

Any application file containing one or more allegations that the applicant is disqualified from membership under Bylaws Article III, Part I, Section 2 will be transmitted to the Chair of the Professional Standards Committee. The Chair will form a panel of inquiry to review the application file, pointing toward a determination of whether the conduct asserted (or some part of it) would be sufficient, if proven, to warrant suspension or expulsion if engaged in by a member.

This panel of inquiry review will be conducted in a manner consistent with the rules and procedures for ethics complaint review specified in SIOR's *Ethics, Mediation and Arbitration Procedures Manual*. Where a panel of inquiry concludes that the conduct described would not be sufficient to warrant suspension or expulsion, the chair will so indicate in the admissions file. The file will then be presented to the Admissions Committee for its assessment of other aspects of the application, in accordance with the Committee's normal procedures.

Where a panel of inquiry concludes that some of the alleged conduct, or all of the alleged conduct taken together, would warrant suspension or expulsion under SIOR's guidelines if the conduct were that of a member, then further processing of the application will be deferred pending a hearing to determine the facts. The applicant will be notified and given the option of participation in the hearing process. If the applicant declines, the application will be deemed withdrawn.

The hearing to determine the validity of the facts alleged will be conducted before an impartial panel having appropriate professional standards credentials that will be designated by the Chair of the Professional Standards Committee. The procedures governing the hearing will be those described in SIOR's *Ethics, Mediation and Arbitration Procedures Manual*. The applicant and others will be entitled to the rights and subject to the responsibilities described in those procedures.

The hearing panel will make findings as to what conduct had been proven to have occurred and whether that conduct (as distinct from the alleged conduct assessed by the panel of inquiry) would warrant suspension or expulsion of a member under the applicable suspension/expulsion guidelines. The rights of appeal provided by the Manual will be available.

When the hearing process has produced a conclusion, a written memorandum stating that conclusion will be transmitted to the application file, which then will be evaluated by the Admissions Committee following customary procedures, except that the results of the hearing process will be conclusive as to the issues addressed and the matters found.

In the event of a complaint that an application has not been acted upon in a timely fashion, a procedural review board will be constituted to include the Membership Standards Committee Chairman, the appropriate Regional Director and two Members from the Chapter having jurisdiction over the application. The board will promptly investigate the complaint and attempt to resolve informally any discrepancy in compliance with the established admissions procedures. In the event the board identifies a discrepancy that cannot be resolved informally, the Chairman of the Committee will submit a written report to the President and Chairman of the Board and Speaker of the Council of Chapter Presidents, who will initiate such formal remedial action as may prove necessary.