GUIDANCE FOR DISCIPLINING DESIGNATED REALTORS® AND BROKERS

_____ ASSOCIATION OF REALTORS®

NOTE: This form should be provided to Grievance Committee panels and Professional Standards Committee Hearing panels in disciplinary cases.

According to Section 2725 of the California Regulations of the Real Estate Commissioner, a broker must exercise reasonable supervision over the activities of his or her salespersons. Reasonable supervision includes, as appropriate, the establishment of policies, rules, procedures and systems to review, oversee, inspect and manage: (a) Transactions requiring a real estate license; (b) Documents which may have a material effect upon the rights or obligations of a party to the transaction; (c) Filing, storage and maintenance of such documents; (d) The handling of trust funds; (e) Advertising of any service for which a license is required; (f) Familiarizing salespersons with the requirements of federal and state laws relating to the prohibition of discrimination; and (g) Regular and consistent reports of licensed activities of salespersons.

A broker must establish a system for monitoring compliance with such policies, rules, procedures and systems. A broker may use the services of brokers and salespersons to assist in administering the provisions of this section so long as the broker does not relinquish overall responsibility for supervision of the acts of salespersons licensed to the broker.

Based on the requirements for broker supervision under California law, C.A.R. recommends that disciplinary hearing panels at local associations in California use similar criteria when determining whether a Designated REALTOR® ("DR") and/or broker should be found in violation of the Code of Ethics due to the actions of a salesperson licensed with the DR and/or broker.

A DR and/or broker **can** be found in violation of the Code of Ethics if:

- their salesperson's violation stems from the DR's and/or broker's failure to establish a system to adequately supervise agents and to monitor salespersons' compliance with the Code of Ethics; or
- a salesperson's potential violation of the Code of Ethics is brought to the attention of the broker and/or DR, but the broker and/or DR does not take reasonable steps to remediate the violation.

A DR and/or broker **should not** be found in violation of the Code of Ethics if:

- (1) the salesperson's actions were contrary to the broker's and/or DR's established policies; and
- (2) the salesperson's actions could not have been prevented by the broker's and/or DR's reasonable supervision of the agent.

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