PRESIDING OFFICER'S STATEMENTS - DISCIPLINARY REVIEW HEARING

PRESIDENT'S OPENING STATEMENT: This review hearing is called to order. The purpose of this review hearing is to determine if there is a legitimate basis to modify or dismiss the decision and recommendation of the hearing panel for this disciplinary matter. In particular, this review hearing panel will consider the arguments of (name of party requesting review _____) who filed this request for review. It should be reminded that this review hearing is not an opportunity to reargue the merits of the dispute and the requesting party's statements should be limited to those bases set forth in their written request for review. Issues and questions that were not raised in the request for review will not be considered during this review hearing.

INTRODUCTIONS: At this time, I would like to introduce the members of this review panel: My name is _____, and I am the Presiding officer. Starting on my far left is _____, a member of the review panel (*presiding officer proceeds to introduce all panel members from left to right*). I now ask that each person introduce yourself starting from my left and indicate your role in today's hearing. (**IF APPLICABLE**: Seated to my (left, right) is _____, the Association's legal counsel. I want to make it clear that the Association's legal counsel is not here to make direct inquiries of the parties and their witnesses and will not participate in any decision of the review panel. However, Association legal counsel is present to advise the review panel on questions that may be raised concerning the procedures used for this hearing or the laws of the State of California. In no event will the Association's legal counsel be considered counsel to the parties.)

CONFIDENTIAL NATURE OF HEARING: Before we continue with this hearing, all persons present are advised that the proceedings and final decisions of this review hearing panel are considered CONFIDENTIAL. All participants in this hearing are admonished that failure to keep these proceedings and the resulting decisions confidential is a violation of your agreement with the Association rules and procedures and the Code of Ethics. Our decision will be made available only to the original hearing Panel members, the parties and their representatives, and the Association's legal counsel and staff as required.

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

Affirmation: Raise your right hand and, following the question I will pose, answer in the affirmative if you do so affirm: Do you affirm that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth and given freely and without reservation?"

HEARING PANEL'S PRESIDING OFFICER SUMMARY OF THE CASE: The original hearing panel's presiding officer, or his or her designee, will now summarize the relevant facts of the case and procedures used at the hearing.

QUESTIONS OF HEARING PANEL'S PRESIDING OFFICER: At this time the parties will be given an opportunity to ask the presiding officer questions and offer any corrections or modifications to the presiding officer's summary. This review panel may also have questions for the presiding officer as well. However, I must again remind the parties that they should not attempt to reargue the factual issues as determined by the hearing panel. Also, no new evidence regarding the merits of the case may be presented.

The _____ (name of party requesting review) may now ask questions or offer corrections and modifications.

The _____ (name of other party(ies)) may now ask questions or offer corrections and modifications.

PARTY REQUESTING REVIEW PRESENTATION: The party requesting the review now has the opportunity to argue the stated bases for the review in his or her written request. Only those bases included in the written request for review may be raised at this hearing. If you feel any portion of the recording of the original hearing is relevant to prove your request, please play only that portion that is appropriate.

RESPONSES: Any other party will have an opportunity to explain why the hearing panel's decision and recommendations should be followed. If you feel any portion of the recording of the original hearing is relevant to prove your request, please play only that portion that is appropriate.

ADJOURNMENT: Panel members and hearing participants, if there is any further information you think this review panel should consider, this is your last opportunity to bring it to our attention. If you have nothing more to add, this review hearing is adjourned.

EXECUTIVE SESSION: (General Guidelines) *After adjournment, the review panel goes into executive session to deliberate the issues raised in the review. Association counsel may remain to advise on procedural issues. The review panel may adopt or modify the recommendation of the hearing panel, including the discipline proposed; or, alternatively, they may dismiss the complaint if they conclude that the findings of fact do not support the hearing panel's conclusion as to violation of an Article of the Code of Ethics, MLS rule or membership duty.*

If the review panel is concerned with a possible procedural deficiency, they may refer the case back to the professional standards committee for a new hearing before the same or a different hearing panel.