

## **How to Prepare for a Professional Standards Hearing**

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You have received notice of hearing at GLVAR and think, “ah ha! All those hours of watching Law and Order are about to come in handy!”

While TV is great for showing high-tension courtroom drama, what you don't see are all of the procedures that help ensure a smooth hearing. This article will explain the hearing process and help REALTORS be better prepared should they find themselves in an ethics or arbitration proceeding.

### **How a Complaint is Filed**

GLVAR processes two types of hearings under the Code of Ethics: ethics and arbitration. Ethics hearings relate to Articles 1 to 16 of the Code of Ethics, while Article 17 relates to the arbitration of commission disputes. Both ethics and arbitration cases have a complainant (the person who files the complaint) and a respondent (the person against whom the allegations are made). GLVAR will notify only those persons named as respondent, so it is important to name the correct person(s) on the complaint.

In a mandatory arbitration, a broker must file as the Complainant and name a broker as Respondent. This is because under Nevada law, the commission belongs to the broker. The agent may also be named, but is not considered a party. NAR rules allow the agent to remain in the arbitration hearing due to the agent's financial interest in the case.

After a complaint is filed, GLVAR's Grievance Committee will review the complaint and decide whether the matter should be forwarded to a hearing. The “GC” will ascertain whether the complaint was timely filed (generally, within 180 days of the event giving rise to the complaint); whether the proper parties are named (GC may add the broker to an ethics complaint); and whether the proper Articles are named (GC may add or delete Articles).

### **Before the Hearing**

Once GLVAR has information packets from both the complainant and the respondent, the chair of the Professional Standards committee will select a hearing panel to hear the case. Any member of the Professional Standards committee is a potential panel member, therefore, both parties have the opportunity to excuse any committee member at the time they complete their paperwork. Examples include a broker you used to work for or an agent with whom you currently have a deal.

The panel chairperson selects the hearing date, at least 21 days in the future. GLVAR then assembles the hearing notice, outline of hearing and each parties' documents (numbered at the bottom right-hand corner of each page), and sends the complete package to the panel members, the parties and their counsel (if applicable). It is important to review all of the information in the package, particularly the date, time and location of the hearing. Do not wait until the day before the hearing! Also, it is important to actually bring the package with you to the hearing, as the

parties' written statements and evidence will be referred to during the hearing. You should familiarize yourself with the important pages of evidence. For example, if you know you will refer to the MLS printout you submitted, you should make a note of the page number such as 1-10 or A-5, so when you refer to it at the hearing, the panel can easily find the page.

### **Documents, Witnesses and Other Rights**

Each side has the opportunity to add documents, disclose witnesses and name counsel (if REALTOR counsel or legal counsel was not provided in the initial filing). Any of these actions must be completed at least 15 days in advance of the hearing. This enables GLVAR to send a copy of the new submission to the panel members and the opposing party.

The day before the hearing, GLVAR will contact the panel members, the parties and any named counsel to remind them of the hearing date and time. GLVAR does not contact witnesses to confirm the hearing date.

### **Hearing Day**

As with any other important meeting, it's best to arrive a few minutes in advance of the hearing time. You will be asked to sign a confidentiality agreement. This agreement states that the hearing and the decision are confidential information and must not be disclosed or discussed except under the very narrow circumstances set forth in the *Code of Ethics and Arbitration Manual*.

It is a very good idea to bring your transaction file to refresh your memory. The hearing panel may ask you clarify the date you called someone, or some other fact. Remember that a hearing may be held several months after the event, and it may be difficult to remember every detail. Also, the panel can ask to see the original of a document if the copy you submitted is illegible or cut off.

### **Next Month: How to Present Your Case**

Box:

#### **Pre-Hearing Checklist**

- ✓ Calendar the date and time of the hearing.
- ✓ Advise counsel and any witnesses of the hearing date, time and location.
- ✓ Review the hearing packet and be familiar with the documents.
- ✓ Disclose additional documents 15 days prior to the hearing.
- ✓ Disclose witnesses 15 days prior to the hearing.
- ✓ If you hired counsel after filing your initial paperwork, advise GLVAR of the presence of counsel 15 days prior to the hearing.
- ✓ Bring the transaction file.
- ✓ Arrive a few minutes early.