

RIDGECREST AREA ASSOCIATION OF REALTORS® (RAAR)
MLS CITATION / FINE POLICY
August 6, 2008

To ensure the integrity of the MLS and MLS database, this Citation Policy has been established in accordance with Section 14.3 of the MLS Rules and Regulations. Fines will be issued in accordance with this policy, and are subject to change upon approval by the MLS Committee and the Board of Directors. This policy is not all-inclusive, may not reflect violations of the Code of Ethics, and does not replace Professional Standards Enforcement.

RAAR has instituted this Citation/Fine Policy to make a focused effort on bringing back the integrity of the MLS in the eyes of the members it serves.

CITATION AND FINE PROCESS

A violation of the MLS Rules may be reported to the Board office by way of a "Whistle Blower" form, by fax, an email, or the 'Report Listing Violation' button on the MLS. The violation will then be reviewed by the MLS Committee members, or member, in order to determine whether the violation is: **1) one that can be corrected, 2) one that is fined without a warning, or, 3) not a violation.** The MLS Committee will then report back to the Board office regarding the proper action to take.

Violations of MLS Rules that can and cannot be corrected are listed in the **Schedule of Fees and Charges** on the final pages herein.

1. **If the violation is one that can be corrected**, the Board Office shall send a **Notice of Violation Warning (NV-W)** to the Violator and to their responsible Broker Participant, or to their Subscriber Participant (Responsible Participant) **by email or by surface mail.**

Violator and/or the Responsible Participant must submit a Notice of Correction back to the Board Office by email, fax, or letter within forty-eight (48) hours if the violation is one that can be corrected. **If the violation is not corrected within forty-eight (48) hours** of the Receipt Date of the NV-W, the Board Office shall send a Notice of Violation and Fine Assessment (NVFA) to the Violator by surface mail.

2. **If the violation is one that is fined without a warning**, an NV-W is not sent to the Violator and Responsible Participant. Instead, the Board Office shall issue a **Notice of Violation and Fine Assessment (NVFA)** to the Violator via surface mail. **If, within twenty-five (25) business days** of the Receipt Date of NVFA the fine is not paid, or a Request for Administrative Review (RAR) letter, or a Request for

Hearing (RH), is not received by the Board Office, the MLS privileges of the Violator will be suspended.

3. **If the violation is determined NOT to be a violation** no communication will be sent to the Violator. An explanation why the reported violation is not an actual violation will be sent from the Board Office via email or letter to the party who originally issued the report.

REPORTING A VIOLATION

Reports of violations can be made by:

1. "Whistle Blower" form available at Board Office
2. FAX to (760) 384-4071
3. E-mail to raar@mchsi.com
4. 'Report Listing Violation' button on MLS

Reports **must include** the following information:

1. Name and office of the alleged Violator
2. Nature of the violation(s) must be as specific as possible. i.e. when violation occurred, the MLS #, MLS Rule # and title, etc.)

Reporter's name and contact information is for verification purposes only and AND WILL BE KEPT IN STRICT CONFIDENCE.

VIOLATIONS AND FINES

First Offense within a 12-month period:

\$50

Second Offense within a 12-month period:

\$100

Third Offense within a 12-month period:

\$200

More than three offences within a 12-month period constitutes grounds for additional disciplinary action, including suspension or expulsion from the MLS, after an appropriate hearing as provided in the *California Code of Ethics* and *Arbitration Manual*.

RESPONSIBILITY FOR VIOLATIONS AND FINES

1.1 The Violator, whether a Broker Participant, Appraiser Participant, R.E. Subscriber, or Appraiser Subscriber (Responsible Participant) shall be directly responsible for paying the fine and correcting the violation.

In the event the Violator is a Clerical User employed by a Participant or Subscriber named above, the Clerical User's Broker Participant, Appraiser Participant, R.E. Subscriber, or Appraiser Subscriber (Responsible Participant) shall be directly responsible for paying the fine and correcting the violation.

1.2 If the Violator shall 1) become employed or associated with another Broker Participant or Appraiser Participant within the MLS, or 2) ceases to be employed by their present Responsible Participant, or 3) ceases to be a member of the RAAR, the original Broker Participant, Appraiser Participant, R.E. Subscriber, or Appraiser Subscriber (Responsible Participant) with whom the Violator was previously employed by when the violation occurred shall be directly responsible for paying the fine and correcting the violation.

1.3 For purposes of determining future liability for violations and fines, the Violator's history shall continue to apply if and when the Violator becomes employed by or is associated with a new Broker Participant, Appraiser Participant, R.E. Subscriber, or Appraiser Subscriber within the RAAR.

NONPAYMENT RESULTS IN MLS SUSPENSION

Failure to pay a fine, unless an administrative review, hearing, or an appeal is requested will result in suspension of MLS privileges of the Violator and/or Responsible Participant, pursuant to Paragraph 17.1 of the MLS Rules & Regulations, which reads as follows:

***“17.1 Nonpayment of MLS Fees.** If MLS fees, fines, charges or other amounts owed the MLS are not paid within one month after the due date, the nonpaying participant and/or subscriber's MLS services shall be subject to suspension until such outstanding amounts are paid in full. The MLS may suspend MLS services under this section provided the MLS gives the participant and/ or subscriber at least twenty (20) calendar days prior notice of the proposed suspension date. Such notice may be included with the original billing statement for MLS fees, fines or charges or any time thereafter. In the event the amounts owed remain unpaid for three months after the due date, the nonpaying participant MLS services shall automatically terminate regardless if notice of such terminations is given.”*

CALCULATION OF TIME PERIODS

Time to submit or report, or correct violations, under the RAAR MLS Rules is counted as business days—weekends and federal holidays are excluded.

DUE DATE FOR FINES

Fines are due within twenty-five (25) business days of the Receipt Date set forth on the NVFA. Receipt is presumed two (2) business days after surface mailing.

MULTIPLE AND REPEAT VIOLATIONS

If a NVFA includes multiple violations, fines will be assessed on a per listing basis.

REPEAT VIOLATIONS

If, within a twelve (12) month period, the Violator is issued two NV-Ws for the same violation that can be corrected, the second NV-W will result in an AUTOMATIC fine, and a Notice of Violation and Fine Assessment (NVFA) will be issued.

RIGHT TO DISPUTE NOTICE OF VIOLATION AND FINE ASSESSMENT

There are two alternative procedures for disputing a Notice of Violation and Fine Assessment (NVFA): 1) an **Administrative Review by the Board of Directors** or, 2) a **Hearing Before the Professional Standards Committee**.

ADMINISTRATIVE REVIEW BY THE BOARD OF DIRECTORS

1.1 An Administrative Review is a “paper review” and no formal hearings are held, and no appearance by the Violator is necessary or permitted.

1.2 The Violator may request an Administrative Review by writing a ‘Request for Administrative Review’ (RAR) letter within thirty (30) calendar days, addressed to the Board Office, to dispute the NVFA. The MLS Committee and the Board of Directors will review the NVFA and the RAR letter, and a final decision will be made by the Board of Directors.

The RAR letter must state the specific ground(s) for the review and must include all facts and reasons for the request. The grounds for an Administrative Review may include one or more of the following: 1) Factual dispute regarding the alleged violation(s) such as misapplication of the MLS Rule(s) cited, 2) Contention that there has been a violation of procedural due process, or, 3) Contention that the actual days fined are incorrect.

1.3 Decision on Request for Administrative Review. A written Notice of Administrative Review Decision by the Board of Directors will be sent to the Violator within thirty (30) calendar days of receipt of the RAR letter.

- In the event the Board of Directors determines that no violation(s) occurred, the fine will be withdrawn.
- In the event the Board of Directors determines that there has been a procedural due process violation, or an error was made, the fine will be withdrawn.
- The Board of Directors may reduce the amount of the fine.
- **In the event the Board of Directors determines that a violation has occurred the fine will be due within three (3) business days of the decision.**

HEARING BEFORE THE PROFESSIONAL STANDARDS COMMITTEE

1.1 A Hearing Before The Professional Standards Committee is a formal hearing in accordance with the *California Code of Ethics and Arbitration Manual*. The violator is required to attend. Failure of the violator to attend the hearing will result in the fine citation being deemed final without any further notice.

1.2 The Complainant shall be a representative of the MLS Committee or the original Complainant who filed the violation.

1.3 The Violator may request a Hearing Before The Professional Standards Committee by writing a Request for Hearing (RH) letter within (30) thirty calendar days, addressed to the Board Office to dispute the NVFA.

The only grounds for a request for a hearing should be consideration of the alleged violation, and the merits of the claim.

1.4 The Professional Standards Committee will schedule a hearing in accordance with the *California Code of Ethics and Arbitration Manual* within 45 calendar days of receiving the RH letter.

1.5 Decision on Request for Hearing Before The Professional Standards Committee. At the conclusion of the hearing it shall be determined that:

- In the event the hearing determines that no violation(s) occurred, the fine will be withdrawn.
- The Professional Standards Committee may reduce the amount of the fine.
- **In the event the Professional Standards Committee determines that a violation has occurred the fine will be due the day of the decision. A \$500 administration fee for the hearing will also be due, and will not apply toward the payment of any fines. Additional discipline and sanctions may be imposed by the**

hearing panel in accordance with the *California Code of Ethics and Arbitration Manual*.

1.6 RIGHT TO APPEAL to the Board of Directors. After the Professional Standards Committee has reached its decision the Complainant or Violator has the right to appeal the final decision in accordance with Section 71 of the *California Code of Ethics and Arbitration Manual*.

- Any party may file a written request for procedural review within (20) calendar days after the hearing.
- The only basis for appeal is on the grounds of procedural deficiency, misapplication of the MLS Rules, or on the discipline recommended by the Professional Standards Committee.
- The hearing procedures for the appeal shall be the same as for The Hearing Before the Professional Standards Committee.
- **The conclusions and decisions of the Right to Appeal to the Board of Directors shall be deemed final. The Complainant or Violator may not appeal the final conclusion(s) or decision(s) a second time.**

Citation/Fine Policy: August 6, 2008

SCHEDULE FOR FEES AND CHARGES

**MLS Rule Violations That Can Be Corrected are as follows.
NV-W is sent to Violator who then has 48 hours to comply.
If Violator does not comply within 48 hours, an NVFA is issued.**

- 5.1.6 Certification of Nonuse
- 7.3 Types of Properties; Responsibility for Classification
- 7.11 Detail on Listings Filed With the Service
- 7.12 Unilateral Contractual Offer of Compensation
- 7.15.2 Lender Approval Listings
- 7.17 Broker Participant or R.E. Subscriber as Principal
- 7.18 Multiple Unit Properties
- 7.22 Dual or Variable Rate Commission Arrangements
- 8.3 Accuracy of Information; Responsibility for Accuracy
- 9.1 Showing and Negotiations
- 9.4 Presentation of Offers
- 9.5 Submission of Offers and Counter Offers
- 10.3 Refusal to Sell
- 12.4 Solicitation of Listings Filed With the MLS
- 12.5 Misuse of Remarks
- 12.7 "Sold" Signs and Use of the Term "Sold"
- 12.8 Advertising of Listing Filed With the MLS
- 12.9 Limitations of Use of A.O.R or MLS Information in Advertising
- 12.11 Use of MLS Information

12.12 Confidentiality of MLS Information

12.12.1 Clerical Users

<u>MLS Rule Violations Fined W/O Warning NVFA is issued to Violator</u>	Time allowed to change info in MLS	Amount of Fine
7.2.1 Failure to Identify Limited Service Listings	None	
First infraction		\$50.00
Second infraction		\$100.00
Third infraction		\$200.00
7.2.2 Failure to Identify Entry-Only Listings	None	
First infraction		\$50.00
Second infraction		\$100.00
Third infraction		\$200.00
7.5 Late Submission or Failure to Submit Exclusive Right to Sell or Exclusive Agency Listings	48 hours	
First infraction		\$50.00
Second infraction		\$100.00
Third infraction		\$200.00
7.6 Late Submission or Failure to Submit Exempted Listings	24 hours	
First infraction		\$50.00
Second infraction		\$100.00
Third infraction		\$200.00
7.8 Late Submission or Failure to Submit Change in Listings	24 hours	
First infraction		\$50.00
Second infraction		\$100.00
Third infraction		\$200.00
7.9 Failure to Notify Board of Withdrawal or Cancellation of Listing	24 hours	
First infraction		\$50.00
Second infraction		\$100.00
Third infraction		\$200.00

7.19	Failure to Notify Board of Renewal or Extension Prior to Expiration	24 hours	
	First infraction		\$50.00
	Second infraction		\$100.00
	Third infraction		\$200.00
8.2	Failure to Provide Written Documentation Upon Request of the Board	24 hours	
	First infraction		\$50.00
	Second infraction		\$100.00
	Third infraction		\$200.00
10.1	Failure to Report or Late Reporting of Sales	24 hours	
	First in fraction		\$50.00
	Second infraction		\$100.00
	Third infraction		\$200.00
10.2	Failure to Report or Late Reporting of Cancellation of Pending Sale	24 hours	
	First infraction		\$50.00
	Second infraction		\$100.00
	Third infraction		\$200.00
12.2	Confidentiality of MLS Information	None	
	First infraction		\$50.00
	Second infraction		\$100.00
	Third infraction		\$100.00
13.2	Key Use and Service	None	
	First infraction		\$50.00
	Second infraction		\$100.00
	Third infraction		\$200.00
13.3	Temporary Keys	48 hours	
	First Infraction		\$50.00
	Second infraction		\$100.00
	Third infraction		\$200.00
13.4	Accountability	None	
	First infraction		\$50.00
	Second infraction		\$100.00
	Third infraction		\$200.00

More than three offences within a 12-month period constitutes grounds for additional disciplinary action, including suspension or expulsion from the MLS, after an appropriate hearing as provided in the *California Code of Ethics and Arbitration Manual*.

Any violations that occur that are not covered in the Schedule For Fees and Charges shall be at the discretion of the MLS Committee with the approval of the Board of Directors.