

# OMBUDSMAN POLICIES AND PROCEDURES

## Ocala/Marion County Association of REALTORS®

### Section 1.

#### A. Purpose

The purpose of the Ombudsman is to provide a knowledgeable, informed contact when REALTOR® members or members of the public have real estate related questions that have not been addressed by an individual broker.

The role of the Ombudsman is to identify and attempt to facilitate a resolution of misunderstandings and/or disagreements before matters evolve into a formal complaint.

#### B. Qualifications

1. Must have a minimum of five years in the real estate business and be actively involved in real estate practice.
2. Familiar with the NAR Code of Ethics, Florida real estate statutes and regulations, and applicable MLS Rules and Regulations.
3. Primary member of OMCAR.
4. Completed Professional Standards, and have served on a Grievance Committee and processed at least one complaint or have served on at least one Professional Standards hearing panel.
5. Is a Volunteer – Not paid staff

#### C. Responsibilities

1. Maintain confidentiality of all parties.
2. Field and respond to any real estate questions including but not limited to:
  - a) General questions about real estate practice.
  - b) Transaction details.
  - c) Ethical practices.
  - d) Options for filing complaints
  - e) Questions of compliance with governing documents.
3. Must be impartial – cannot take sides or determine who is right or wrong.

#### D. Limitations

The Ombudsman may not refer concerns they have regarding the conduct of any party utilizing their services to the Grievance Committee, to the Florida Real Estate Commission, a local MLS Committee or to any other regulatory body except those concerns that the public trust has been violated will be referred to the Grievance Committee.

The Ombudsman will adhere to Article 11 of the Code of Ethics and make appropriate referrals when the issues are outside their area of expertise.

### Article 11

The services which Realtors® provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, land brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

Realtors® shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth. *(Amended 1/10)*

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#### **E. Selection and Term**

Ombudsmen will be appointed by the OMCAR President and ratified by the Board of Directors. Appointment will be for a one-year term and may be renewed at the option of the OMCAR President and ratified by the Board of Directors. OMCAR will maintain a pool of at least 3 Ombudsmen to be available at all times.

#### **F. Process**

1. The Ombudsman may be contacted directly or referred by OMCAR staff or members.
2. When contacted, OMCAR staff will offer the services of an Ombudsman as an alternative to or in conjunction with submitting a formal complaint.
3. If a complaint is received by OMCAR and the complainant agrees, the Ombudsman may attempt to resolve the matter before proceeding to the Grievance Committee. If resolution is not reached, the complainant may continue with the complaint procedure as outlined in the Code of Ethics and Arbitration manual.
4. In carrying out the assigned duties, the Ombudsman may:
  - a) Contact the members who are named to obtain information to provide an informed response.  
Arrange a meeting of the parties to facilitate a mutually acceptable resolution as necessary.
  - b) Call upon other Ombudsmen serving OMCAR for consultation.
5. The Ombudsman will submit a report to the OMCAR staff on a form to be provided for the purpose of tracking the service and potential areas of member education.

#### **G. The Ombudsman Service works in conjunction with our REALTOR Professional Standards process.**

1. Once the Ombudsman service commences as to a particular matter, the 180 day filing deadline set forth in the COEAM for the filing of ethics complaints or arbitration requests is suspended until the Ombudsman service has concluded.
2. If the Board's Ombudsman process is initiated by the Complainant with respect to conduct that becomes the subject of a subsequent complaint, the 180 day filing deadline shall be suspended beginning with the date of the request for the Ombudsman service and shall resume when the service has concluded.

#### **H. If the Ombudsman process is unsuccessful, the complainant has several options.**

1. A complainant may file a formal complaint with OMCAR
2. The complainant may obtain legal advice
3. The complainant may file a formal complaint with Florida's Department of Business and Professional Regulations – Division of Real Estate
4. The complainant may be offered mediation after a Request and Agreement to Arbitrate is filed and forwarded to the Professional Standards Committee for a hearing.
5. The complainant may seek outside mediation services.

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- J.** The Ombudsman's responsibilities to OMCAR
1. Attempt to call the complainant within 48 hours
  2. After two or three attempts to call the complainants and no response is forthcoming, discontinue the call.
  3. Notify OMCAR's Professional Standards Secretary ("Secretary") immediately if complainant cannot be reached.
  4. Email completed Ombudsman Log to Secretary within 48 hours of closing the file.
  5. After all materials related to this matter are emailed to the Secretary, shred these materials or return them to the Secretary for proper disposal.
- K.** OMCAR's Responsibilities to Ombudsman
1. Contact the Ombudsman one week prior to service to confirm they have a log.
  2. Email Ombudsman packet requesting service and a "read receipt."
  3. If the Professional Standards Secretary ("Secretary") does not receive a "read receipt" within twenty-four hours, contact the Ombudsman by phone.
  4. Secretary to forward service requests containing only one case per email.
  5. Secretary to include the following information within the Ombudsman's service request:
    - Name and phone number of complainant
    - Name and phone number of respondent
    - Name and phone number of respondent's broker