

Professional Standards Update--Request for Arbitration Expenses

REALTOR® A, the listing broker, and REALTOR® B, a cooperating broker, engaged in a heated dispute as to which REALTOR® was the procuring cause of a sale and, therefore, entitled to the commission. Finding that they could not resolve the matter themselves, they agreed to arbitrate in accordance with Article 17 of the Code of Ethics.

REALTOR® A initiated the request for arbitration with a letter to the Board; the letter was received and reviewed by the Grievance Committee which agreed that it was an arbitrable matter. The case was sent on to the Professional Standards Committee for a hearing.

The President of the Board, consistent with the Board's Code of Ethics and Arbitration Manual, appointed a five-member Hearing Panel to hear the case. The proper forms agreeing to the arbitration were sent to both REALTORS®, each signed his agreement and returned it to the Secretary. Prior to the date set for the hearing, REALTOR® A learned that REALTOR® B had practiced law before he entered the real estate business. REALTOR® A then decided that he would be at a disadvantage in presenting his case to the Hearing Panel without an attorney due to the legal background of REALTOR® B. REALTOR® A sent in an amended arbitration request in which he asked that he be awarded the commission and attorney's fees and any other administrative expenses that he might incur in the presentation of his case before the Hearing Panel. The Chairperson accepted the amended complaint as part of the case and mailed REALTOR® B a copy.

The case was set and a hearing was held at which REALTOR® A appeared with his attorney and a court reporter. REALTOR® B acted as his own attorney. The Hearing Panel had the Board's attorney and a secretary with a tape recorder present. After giving both parties the opportunity to present their case, the Hearing Panel adjourned the hearing and went into executive session to reach a decision.

It was the opinion of the Hearing Panel that the arbitration process is provided to all REALTORS® and REALTOR-ASSOCIATE®s by the Board to avoid any unnecessary expenses. The hiring of an attorney was REALTOR® A's own decision, not required by Article 17 of the Code of Ethics, the Hearing Panel, the Code of Ethics and Arbitration Manual, or the Board of REALTORS®. The Hearing Panel decided the commission dispute based strictly on the merits of the case presented. The Hearing Panel disallowed the request by REALTOR® A that he be awarded attorney's fees or other administrative expenses.