

# AEI 2024 Legal Seminar

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Wednesday, March 13<sup>th</sup>

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# MEET THE TEAM



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## NAR LEGAL TEAM DIRECTORY

LEGAL	AREAS OF EXPERTISE	
<p><b>KATIE JOHNSON</b> Chief Legal Officer and Chief Member Experience Officer</p> <p> kjohnson@nar.realtor  312.329.8372</p>	<ul style="list-style-type: none"> <li>• Advertising</li> <li>• Agency/Buyer Brokerage</li> <li>• Arbitration/Litigation</li> <li>• Copyright</li> <li>• Data Security/Privacy</li> <li>• General Legal Questions</li> <li>• Intellectual Property</li> </ul>	<ul style="list-style-type: none"> <li>• License Agreements</li> <li>• Litigation Management</li> <li>• Music Licensing</li> <li>• RAMCO</li> <li>• The REALTOR® Marks</li> <li>• REALTORS Property Resource®</li> <li>• Social Media</li> </ul>
<p><b>LESLEY M. MUCHOW</b> General Counsel, Vice President of Legal Affairs and Antitrust Compliance</p> <p> lmuchow@nar.realtor  312.329.8834</p>	<ul style="list-style-type: none"> <li>• Agency</li> <li>• Americans with Disabilities Act</li> <li>• Anti-Money Laundering</li> <li>• Anti-Trust</li> <li>• Copyright</li> <li>• Cybersecurity</li> <li>• Discrimination and Harassment</li> </ul>	<ul style="list-style-type: none"> <li>• Employment Law</li> <li>• Fair Housing</li> <li>• Independent Contractors</li> <li>• Governance</li> <li>• Litigation Matters</li> <li>• NAR Governance and Policies</li> <li>• The REALTOR® Marks</li> </ul>
<p><b>CHLOE HECHT</b> Senior Counsel</p> <p> checht@nar.realtor  312.329.8248</p>	<ul style="list-style-type: none"> <li>• The REALTOR® Marks</li> <li>• Trademark Enforcement</li> <li>• Legal Action Program</li> <li>• Amicus Brief Advisory Board</li> <li>• Intellectual Property</li> <li>• License Agreements</li> <li>• Music Licensing</li> </ul>	<ul style="list-style-type: none"> <li>• Copyright</li> <li>• Digital Millennium Copyright Act</li> <li>• Cybersecurity</li> <li>• REALTORS Property Resource®</li> <li>• Risk Management</li> <li>• Contracts</li> </ul>
<p><b>CHARLIE LEE</b> Senior Counsel, Director Legal Affairs</p> <p> clee@nar.realtor  312.329.8373</p>	<ul style="list-style-type: none"> <li>• Advertising</li> <li>• Agency/Buyer Brokerage</li> <li>• Antitrust</li> <li>• Appraisal Issues</li> <li>• Association Governance</li> <li>• ARELLO and state real estate commissions</li> </ul>	<ul style="list-style-type: none"> <li>• Contracts</li> <li>• Cybersecurity</li> <li>• Intellectual Property</li> <li>• MLS Policies</li> <li>• Litigation Matters</li> <li>• RESPA</li> <li>• REALTOR® Property Operations Committee</li> <li>• Trade Association Law</li> </ul>
<p><b>MAAME NYAMEKYE</b> Associate Counsel</p> <p> mnayamekye@nar.realtor  202.383.1208</p>	<ul style="list-style-type: none"> <li>• Tax Exempt Organizations</li> <li>• Charitable Solicitation</li> <li>• Governance</li> <li>• Risk Management Issues Committee</li> <li>• Contracts</li> <li>• Intellectual Property</li> </ul>	<ul style="list-style-type: none"> <li>• License Agreements</li> <li>• Independent Contractor</li> <li>• REALTORS® Relief Foundation</li> <li>• REALTOR® Fund for Global Assistance</li> <li>• NAR Corporate Filings</li> <li>• Data Privacy</li> </ul>

<p><b>MIKE ROHDE</b> Staff Attorney</p> <p> mrohde@nar.realtor</p> <p> 312.329.8282</p>	<ul style="list-style-type: none"> <li>• Legal Action Program</li> <li>• Amicus Brief Advisory Board</li> <li>• Fair Housing</li> <li>• Employment Law</li> <li>• Litigation matters</li> </ul>	<ul style="list-style-type: none"> <li>• Legal Case Summaries</li> <li>• Contracts</li> <li>• Governance</li> <li>• Risk management</li> </ul>
<p><b>DEANNE RYMAROWICZ</b> Senior Counsel</p> <p> drymarowicz@nar.realtor</p> <p> 312.329.8386</p>	<ul style="list-style-type: none"> <li>• NAR Insurance Program</li> <li>• Credentials and Campaign Rules Committee</li> <li>• Contracts</li> <li>• Copyright</li> </ul>	<ul style="list-style-type: none"> <li>• Fair Housing</li> <li>• RESPA</li> <li>• Cybercrime</li> <li>• Governance</li> <li>• Risk management</li> <li>• Hearing process &amp; procedures</li> <li>• Legal content on nar.realtor</li> </ul>
<p><b>MATT TROIANI</b> Senior Counsel, Director Legal Affairs</p> <p> mtroiani@nar.realtor</p> <p> 202.383.1007</p>	<ul style="list-style-type: none"> <li>• Advertising</li> <li>• Agency/Buyer Brokerage</li> <li>• Americans with Disabilities Act</li> <li>• Anti-money Laundering</li> <li>• Arbitration-litigation</li> <li>• Copyright</li> <li>• Data Security/Privacy</li> <li>• Fair Housing</li> <li>• General Legal Questions</li> <li>• Governance</li> </ul>	<ul style="list-style-type: none"> <li>• Intellectual Property</li> <li>• License Agreements</li> <li>• Litigation Management</li> <li>• RESPA</li> <li>• Trademark Enforcement</li> <li>• Social Media</li> </ul>
<p><b>KRISTINA MILIA</b> Trademark Paralegal</p> <p> kmilia@nar.realtor</p> <p> 202.383.1009</p>	<ul style="list-style-type: none"> <li>• The REALTOR® Marks</li> <li>• Trademark Enforcement</li> <li>• NAR Insurance Program</li> </ul>	<ul style="list-style-type: none"> <li>• Corporate Filings</li> <li>• Legal Action Committee Financials</li> </ul>
<p><b>AIMEE CRANDALL</b> Senior Executive Assistant, Legal Affairs and Member Experience</p> <p> acrandall@nar.realtor</p> <p> 312.329.8271</p>	<ul style="list-style-type: none"> <li>• Office of the General Counsel and Chief Member Experience Officer</li> <li>• Legal Affairs, Member Experience and Engagement Administrative Support</li> <li>• Document Retention Program</li> </ul>	<ul style="list-style-type: none"> <li>• NAR Legal Education Seminar for Association and MLS Counsel</li> </ul>

# TAB 1

## Litigation Update

**KKATIE JOHNSON**  
NAR Chief Legal Officer &  
Chief Member Experience  
Officer

**LESLEY M. MUCHOW**  
NAR General Counsel, Vice  
President of Legal Affairs  
and Antitrust Compliance

# Katie Johnson

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**Chief Legal Officer and Chief Member  
Experience Officer**

Chicago, IL



# Lesley Muchow

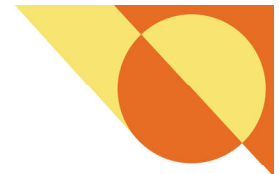
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**General Counsel, Vice President of Legal  
Affairs and Antitrust Compliance**

Chicago, IL



# Litigation Overview



## Where we are today

- There is litigation pending in multiple jurisdictions generally relating to the offer of compensation rule.
- NAR is defending these actions – including challenging the flawed Burnett verdict and similar copycat lawsuits – and will continue to do so in the best interests of REALTORS® and consumers.
- This Burnett verdict does not change consumers' choices or require members to change the way they do business.
- As always, members should continue to communicate with clients about their value, and how they are compensated.



## Burnett

- During the trial, NAR presented evidence showing how sellers benefited from having a represented buyer purchase their home and how sellers also benefited when they themselves were buyers who were represented by a professional but did not pay for that representation directly out of pocket.
- Unfortunately, the judge overseeing the case provided jury instructions and made other findings that NAR believes are legally erroneous.
- Therefore, despite the record at trial, the jury was guided by these legal errors, and found that the defendants had conspired to follow and enforce the rule at issue and that the conspiracy led to sellers paying more in commissions than they otherwise would.







## Burnett (cont.)

- In early January, NAR filed motions asking the Missouri federal court to enter judgment in favor of NAR or grant a new trial. The motions will be fully briefed by late April, and the court will rule on them sometime after that.
- If the trial court does not grant the motions, NAR plans to appeal to the Eighth Circuit Court of Appeal.



## Copycat Lawsuits

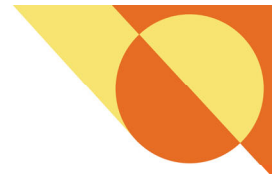
- Following the Burnett verdict, a number of copycat class-action lawsuits were filed by class-action attorneys in multiple states making similar allegations as were made in Burnett.
- These copycat suits are common among the class-action plaintiffs' bar and are all based on the theory that the defendant's actions led to commissions that were too high.
- As you know, this theory is utterly false and not supported by the evidence.
- NAR remains committed to defending all of these matters and any others that may be filed under similar theories.



## Copycat Lawsuits (cont.)

Some of these cases are further along in the legal process. Here is a quick update on cases with upcoming milestones:

- **Judicial Panel on Multidistrict Litigation** – NAR’s response to plaintiffs’ motion to centralize the antitrust cases before the Western District of Missouri was filed on January 26, 2024; a hearing will be held on March 28<sup>th</sup>.
- **Moehrl (Illinois)** – NAR recently filed its Motion for Summary Judgment, which will be fully briefed in April. If we do not prevail on summary judgment, this case would likely head to trial in late 2024 or early 2025.
- **Batton 1 (Illinois)** – NAR’s Motion to Dismiss a class action brought by buyers was granted in part as to federal antitrust claims and several state consumer protection claims. Answer due April 15<sup>th</sup>.



## Member Resources: Legal



## Member Resources

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- NAR will work with any named associations to evaluate their particular circumstances and is continuing to explore additional options to assist associations and MLSs that may be named in future copycat lawsuits.
- In the event your association or brokerage is served with or named in a lawsuit, please contact the NAR legal team Katie Johnson (kjohnson@nar.realtor); Lesley Muchow (lmuchow@nar.realtor); Charlie Lee (clee@nar.realtor); or NAR's outside coordinating counsel Chris Curran (ccurran@whitecase.com) at White & Case LLP.



## Member Resources: Communications



## Member Resources (cont.)

- As a reminder, additional materials are available on Competition.Realtor and The Hub.
- NAR is committed to providing the tools required to support day-to-day conversations with members, brokers, potential home buyers and sellers, and media.
- The landscape will continue to evolve, and NAR will share new information and updated materials as circumstances change.



**THANK YOU.**

**Katie Johnson**  
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**CREA**

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# TAB 2

## Fiduciary Duty Refresh: Effective Boards and Successful Meetings

MIKE ROHDE

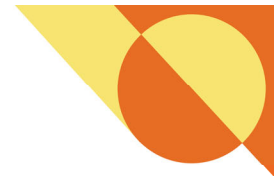
Staff Attorney



# Mike Rohde

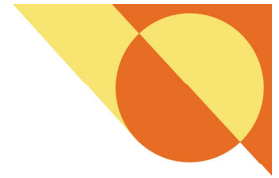
NAR Staff Attorney

Chicago, IL



## FIDUCIARY DUTY REFRESH: EFFECTIVE BOARDS AND SUCCESSFUL MEETINGS





## OVERVIEW

- Governing Documents
- Fiduciary Duties
- Successful Meetings



## WHY THIS MATTERS



1

### RISK MITIGATION

Sound governance practices can avoid unnecessary liability to associations and volunteer leaders.

2

### PERFORMANCE

These practical tips will help your boards accomplish their goals efficiently.

3

### RELATIONSHIPS

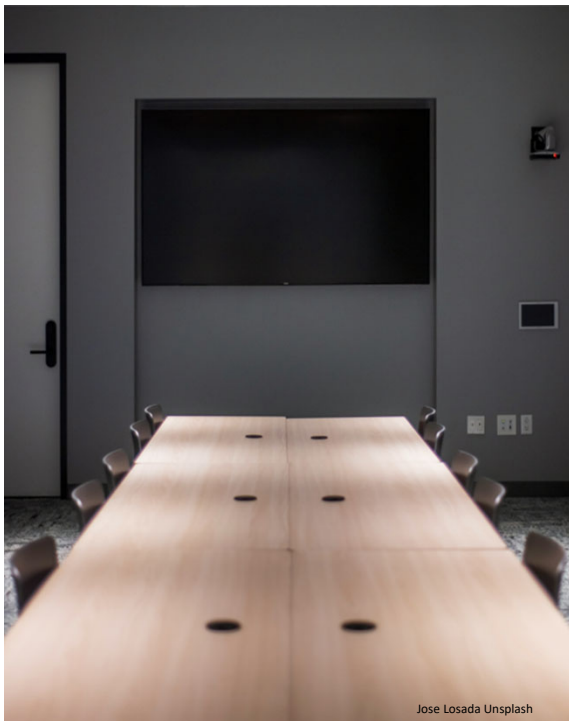
Establishing sensible governance principles can boost the working relationship with your volunteer leaders.





## GOVERNING DOCUMENTS

- **Articles of Incorporation**
  - Public document that legally establishes the organization
  - Agreement between state and organization
- **Constitution and Bylaws**
  - Internal document(s) that governs organization's operations
  - Guiding principles on the governance of the organization
- **Policies**
  - Standard operating procedures that are adopted and amended by the BOD

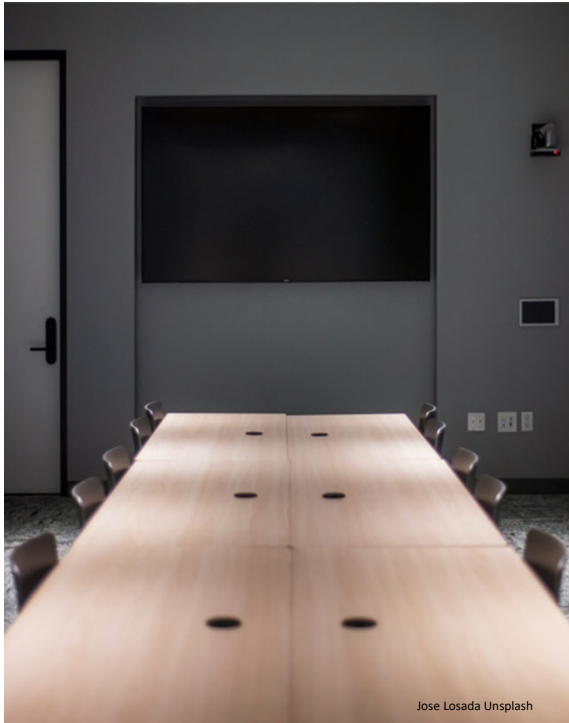


## BOARD OF DIRECTORS

- Conducts oversight and provides strategic guidance and leadership to the organization
- Must act consistently and in accordance with Articles of Incorporation, Bylaws and Policies







## BOARD OF DIRECTORS

- Ultimate authority over internal affairs of organization and management and use of its assets
- Provide strategic leadership
- Must act consistently and in accordance with Articles of Incorporation, Bylaws and Policies



## BOARD FIDUCIARY DUTIES

Duty of Care

Duty of Obedience

Duty of Accounting

Duty of Loyalty

Duty of Confidentiality



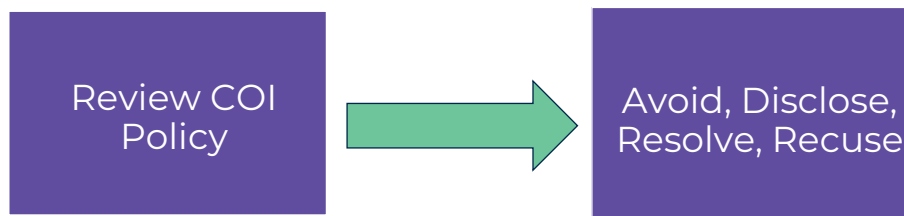


## Duty of Loyalty

- Undivided allegiance and duty of faithfulness to the association
- Directors must act in good faith for the benefit of the organization and not for the director's own personal interest



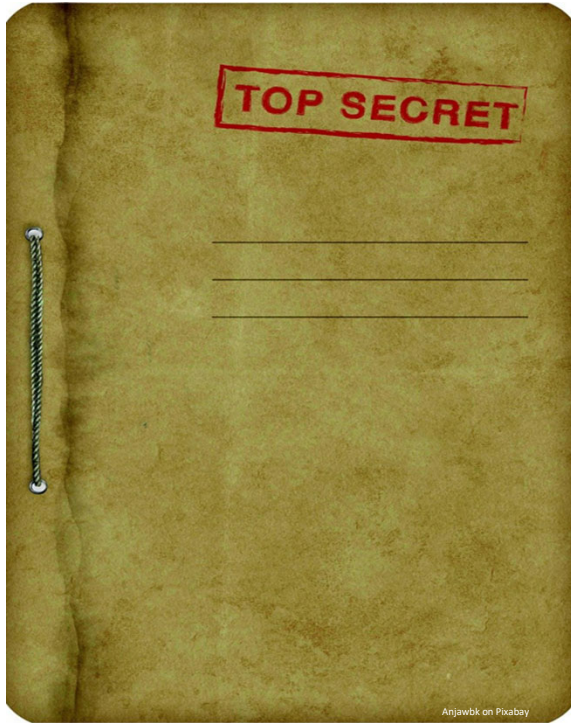
## CONFLICTS OF INTEREST



### Examples

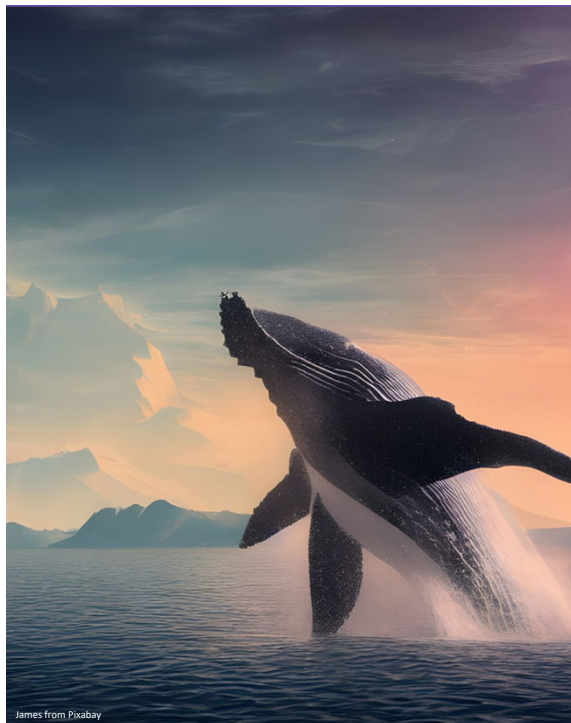
- Transaction with family member
- Purchasing for the association
- Corporate opportunities
- Competing organizations





## Duty of Confidentiality

- Maintain confidentiality of board discussions and deliberations
- Disclosure of non-public information prohibited
- Associations best served by healthy debate and candid conversations



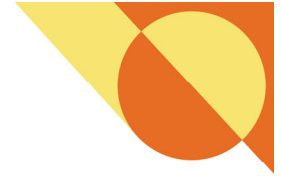
## BREACH OF DUTIES

- Potential for association liability or individual liability
- Perfection not required – the “Business Judgment Rule”



## SUCCESSFUL MEETINGS

- **Fulfill minimum number of BOD meetings**
- **Give sufficient notice and send meeting agenda**
  - Establish start and end times
  - Identify action items, topics and speakers
  - Allows preparation
- **Quorum**
  - Must comply with state law and bylaws
  - Necessary to take valid action



## ROBERT'S RULES – PARLIAMENTARY PROCEDURE



**Promotes Efficiency**



**Protects minority's right to be heard**



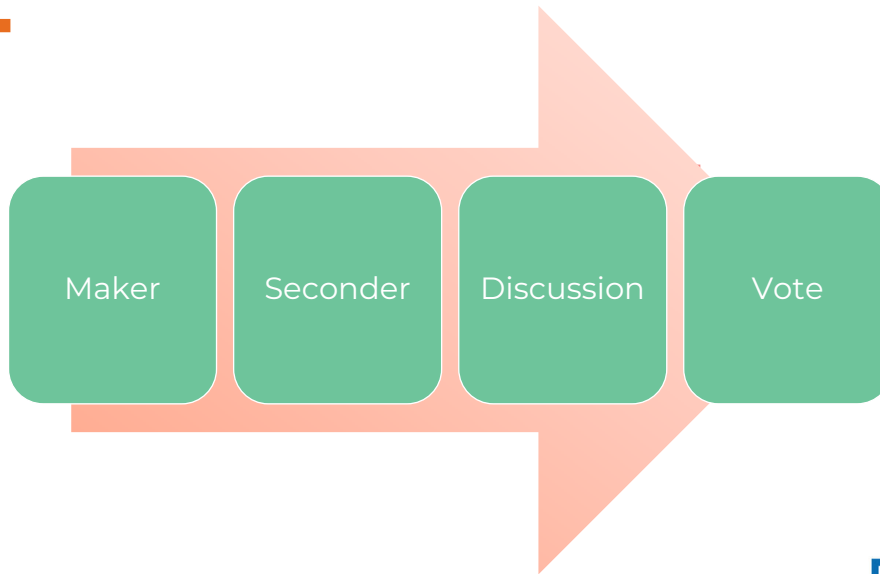
**Protects majority's right to decide**



**Maintains order**



## BOARD ACTION BY MOTION



## MEETING TOOLBOX



### CONSENSUS

- Routine business
- No vote
- If anyone objects, must have motion



### EXECUTIVE SESSION

- Motion to enter/exit
- Limited guests
- Confidential
- separate minutes



### MINUTES

- Legal document
- Record of actions
- Not a transcript
- Date/time, attendance, motions, reports



### ACTION WITHOUT MEETING

- Non-controversial or time-sensitive matters
- Unanimous written approval required
- Abstentions not allowed





**WE'RE HERE TO HELP!**



**THANK YOU.**

**Mike Rohde**  
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# TAB 3

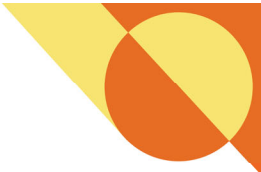
Understand Fair  
Housing, Protect the  
Brand

MATT TROIANI  
Senior Counsel, Director  
Legal Affairs



# MATT TROIANI

SENIOR COUNSEL, DIRECTOR LEGAL AFFAIRS  
WASHINGTON, DC



## UNDERSTAND FAIR HOUSING, PROTECT THE BRAND





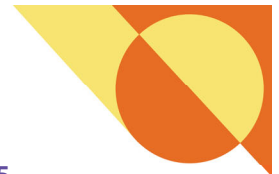
## Why Should Fair Housing Matter to Association Executives?

- Strategic Plan & DEI Strategic Plan
- Fair Housing Training Requirement
- It's the Law!
- REALTOR® Code of Ethics – Article 10
- Fair Housing Law Can Be Complicated – Understand the Challenges Members Face
- Protect the Brand



## Fair Housing Training Requirement

- Starts During Next Code of Ethics Training Cycle: January 1, 2025
- Members Must Complete 2 Hours of Training Every 3 Years
- Courses Satisfying the requirement are:
  - [At Home With Diversity](#)
  - [Bias Override: Overcoming Barriers to Fair Housing](#)
  - Qualified equivalent courses provided by state and local associations, and their partnered providers
  - Qualified equivalent fair housing courses approved by state licensing authorities for an existing state fair housing requirement
  - A to-be-created non-residential practitioner course focused on bias and anti-discrimination training
  - [Fairhaven](#) is being updated to satisfy the requirement.
- State & Local Associations Play an Essential Role in Offering Training and Ensuring Compliance



## FEDERAL LAW

Protects people from discrimination in **all aspects** related to housing: renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities.

Prohibits Discrimination based on:

- Race
- Color
- National Origin
- Religion
- Sex
- Familial Status
- Disability



## STATE & LOCAL LAWS

States, counties and cities are able to adopt additional protected classes in addition to those recognized under federal law.

Common Additional Prohibitions on Discrimination Include:

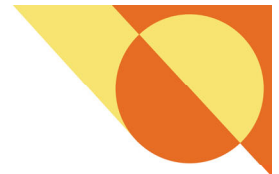
- Age
- Ancestry
- Marital Status
- Sexual Orientation
- Gender Identity or Expression
- Veteran/Military Status
- Source of Income



# REALTOR® Code of Ethics

## ARTICLE 10

- REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity. *(Amended 1/23)*
- REALTORS®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity. *(Amended 1/23)*



## FAIR HOUSING CAN BE COMPLICATED

- **Evolving Landscape – Classes, Definitions and Standards**
- **Advertising Restrictions**
- **Disparate Impact**



## ADVERTISING

- Describe the property, not its ideal resident.
- Describe your services, not those you wish to serve.
- Avoid implying any preference.



## THE “ORDINARY READER” STANDARD

- The legal standard for evaluating a preference or discriminatory effect in housing advertisements.
- Discriminatory intent is not necessary!
- No official lists of acceptable/unacceptable words or phrases exists.
- “Neither the most suspicious nor the most insensitive of our citizenry.”
- Considers totality of context.
- Evolves over time. Once acceptable words/phrases might later be deemed unlawful.





## DISPARATE IMPACT

- A facially neutral practice or policy that has, or predictably would result in, a discriminatory impact on a protected class.
- **Examples:**
  - Criminal Record Screening
  - Prerequisites
  - Occupancy Rules
  - Government Policies which eliminate affordable housing or perpetuate redlining



## OTHER CONSIDERATIONS

- Assistance Animals
- Appraisal Bias
- DEI/Affirmative Action in Housing
- Foreign Buyer Restrictions
- Limited-English-Proficiency (LEP) Clients
- When Protections Conflict – *303 Creative Decision*





## FAIR HOUSING CAN BE COMPLICATED...BUT IT DOESN'T HAVE TO BE!



- Focus on the property, not the ideal resident
- Avoid simple and blanket policies, especially if exclusionary
- Treat all persons equally, regardless of an individual's inclusion in a protected class



## PROTECT THE BRAND

*Agents who are REALTORS® are everyday working people who are experts in helping consumers navigate the complexities of home purchases and advocates for fair housing and wealth building for all.*

Association Executives have an essential role in protecting the brand!

- Spread the word about the amazing and difficult work our members do.
- Ensure all members have access to the information, education and resources they need to thrive.



# THANK YOU.

**Matt Troiani**

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# TAB 4

Cybersecurity:  
Protect Your Data,  
Protect Your Brand

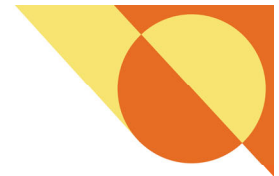
DEANNE RYMAROWICZ  
Senior Counsel





# DEANNE RYMAROWICZ

Senior Counsel  
Chicago, IL



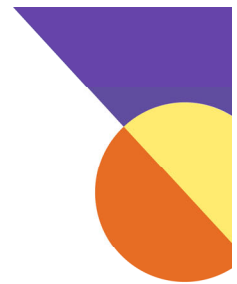
**CYBERSECURITY:**  
*Protect Your Data,  
Protect Your Brand*





# CYBERSECURITY

is \_\_\_\_\_.



# CYBERSECURITY

is an opportunity.



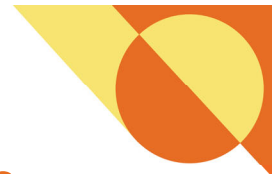


# Cybersecurity is much more than an IT topic.

**Stéphane Nappo**

Global Head Information Security

Société Générale International Banking Group



- Anticipation**
- Education**
- Detection**
- Reaction**
- Resilience**



## CYBERCRIME BY THE NUMBERS



800,944



\$10.3 BILLION



49%

Source: 2022 IC3 Internet Crime Report



## CYBERCRIME BY THE NUMBERS

TOP CYBERCRIMES PER IC3 BY LOSS - 2022

1

Investment

2

Email  
Compromise

3

Tech  
Support

4

Personal Data  
Breach

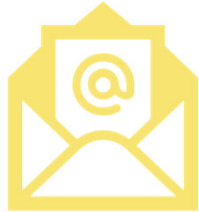
5

Confidence/  
Romance

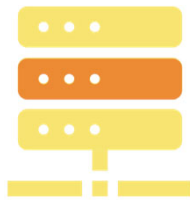
Source: 2022 IC3 Internet Crime Report



# TOP 3 CYBER CLAIMS – 2023



**EMAIL  
COMPROMISE**



**NETWORK  
INTRUSION**



**RANSOM-  
WARE**

*Based on 2023 NAR claims data.*



## EMAIL IS THE GATEWAY



## YOU'VE BEEN HACKED!

---

- You can't log in to your account.
- You get a notification about a change to your username or password— but you didn't make that change.
- You get a notification that someone logged into your account from a device you don't recognize or a location you're not at.
- Your friends or family report getting emails or messages you didn't send, sometimes with random links or fake pleas for help or money.



Source: [Federal Trade Commission](#)



## YOU'VE BEEN HACKED!

---

- Your email settings have rules set up to forward emails. (Delete any rules you didn't set up, so your messages aren't forwarded to someone else's address.)
- Your sent folder has emails the hacker sent from your account. Your deleted folder has emails the hacker may have read then deleted.
- Your social media accounts have messages the hacker posted or sent from your account.
- You have new friends on social media you don't recognize.



Source: [Federal Trade Commission](#)



## INTRUDER ALERT!

---

- Locked accounts; reports from staff they can't access their email or applications.
- Unusual administrative activity.
- Network performance issues and slow internet.
- New, unknown files/programs appearing on the network.
- Unusual outbound traffic.
- Unusual account activity, like the membership coordinator is signing on from Russia.

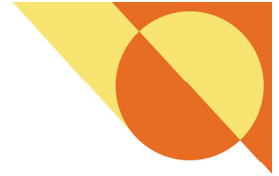


## YOU'VE GOT RANSOMWARE!

---

- A ransom message
- Rogue executing files
- Encrypted files
- New accounts in admin group
- Unusual network connections
- Sudden service interruptions
- Large files being uploaded





## NOW WHAT DO I DO!?!



## NEXT STEPS

---

- Invoke your cyber incident response plan.
- Contain/mitigate the incident/breach.
- Call Chubb hotline.
- Maintain record of any actions the association takes in responding the incident.
- Ensure legally-sensitive documents go through legal counsel.
- Preserve any evidence that may be relevant to any investigation or litigation investigation.





## REPORT THE CYBER CLAIM



CALL THE CYBER HOTLINE

**800-817-2665**

Available 24/7



Follow up with an email to  
[Justin.rose@chubb.com](mailto:Justin.rose@chubb.com)



## TRIAGE CALL

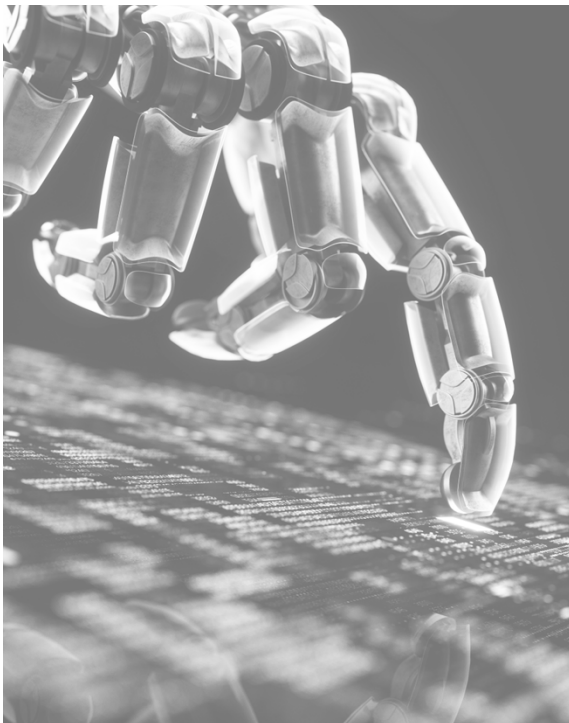


- The nature of the incident;
- The organization's operational status;
- The immediate next steps to mitigate the impact of the incident and/or restore operations;
- The scope of additional vendor support needed (e.g., forensics, negotiation, restoration, public relations, etc.);
- The involvement of law enforcement



## TRIAGE CALL

- The measured decision of engaging with the threat actor, and regulatory guidance on those communications;
- Coordination with business partners;
- Coordination with cyber insurance carrier claim team; and
- The legal, contractual and regulatory framework applicable to your organization, especially if PII was compromised



## TAKEAWAYS

- Understand what the top vulnerabilities are, and how to address them
- Know the signs and train staff to spot them (phishing tests)
- Have an incident response plan



## TAKEAWAYS

- Follow cybersecurity best practices, including
  - ✓ Do not click links in emails
  - ✓ Use strong passwords and change them often
  - ✓ Use multi-factor authentication (MFA) when available
  - ✓ Update OS, browser and firewall
- Review vendor agreements for their security standards and backups



**THANK  
YOU.**

**Deanne Rymarowicz**

**CALL: 312-329-8386**

**EMAIL: [drymarowicz@nar.realtor](mailto:drymarowicz@nar.realtor)**



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NARdotRealtor



nar.realtor

# TAB 5

## Trademark Protection as a Member Service

CHLOE HECHT

Senior Counsel



# CHLOE HECHT

**SENIOR COUNSEL**  
CHICAGO, IL



## TRADEMARK PROTECTION AS A MEMBER SERVICE

- HISTORY OF THE REALTOR® MARKS
- IMPORTANCE OF NAR'S TRADEMARK PROTECTION PROGRAM
- CORE TRADEMARK RULES
- MEMBER-SPECIFIC TRADEMARK RULES
- ASSOCIATION-SPECIFIC TRADEMARK RULES
- ASSOCIATIONS' ROLE IN ENFORCEMENT





## WHAT IS THE MEANING OF REALTOR®?



**REAL-TOR (re'al-tôr')**: A FEDERALLY-REGISTERED COLLECTIVE MEMBERSHIP MARK THAT IDENTIFIES A REAL ESTATE PROFESSIONAL WHO IS A MEMBER OF THE NATIONAL ASSOCIATION OF REALTORS® AND SUBSCRIBES TO ITS STRICT CODE OF ETHICS

MEMBER OF THE NATIONAL ASSOCIATION OF REALTORS®





## DO YOU KNOW THE STORY OF HOW THE REALTOR® TRADEMARK WAS CREATED?

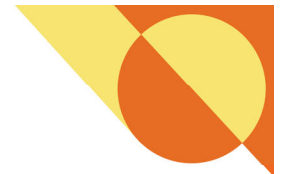


6

### HISTORY

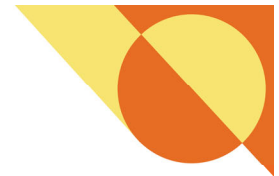
MEMBER CHARLES CHADBOURNE COINED THE REALTOR® MARKS IN 1915.

NAR BOUGHT THE REALTOR® MARKS FROM CHADBOURNE IN 1916.





**HOW MUCH DID NAR PAY TO  
CHADBOURNE WHEN  
PURCHASING THE REALTOR®  
MARKS IN 1916?**



## **IMPORTANCE OF NAR'S TRADEMARK PROTECTION PROGRAM**





## WHY IS YOUR UNDERSTANDING OF NAR'S TRADEMARK RULES IMPORTANT?



**PROTECT THE REALTOR® BRAND**



**OBLIGATIONS UNDER NAR'S BYLAWS**



**EDUCATE MEMBERS**



**LEAD BY EXAMPLE**



## NAR'S THREE CORE TRADEMARK RULES



# REAL-TOR (re'al-tôr'): MEMBER OF THE NATIONAL ASSOCIATION OF REALTORS®



1

**PROPER  
FORMATTING**

2

**NO  
DESCRIPTIVE  
WORDING**

3

**PROPER  
CONTEXTUAL  
USE**



## PROPER FORMATTING



**PREFERRED FORMAT:**

**REALTOR®**

**PERMITTED FORMATS:**

**Realtor®  
REALTOR**

**NOT PERMITTED:**

**realtor**



# PROPER FORMATTING



# NO DESCRIPTIVE WORDING



Except as specifically otherwise provided in this Article, use of descriptive words or phrases in connection with the term REALTOR®, REALTORS® or REALTOR-ASSOCIATE® is expressly prohibited.

**NATIONAL ASSOCIATION OF REALTORS®  
BYLAWS**

ARTICLE V, SECTION 6





**DO THE TERMS “COMMERCIAL”  
AND “RESIDENTIAL”  
CONSTITUTE DESCRIPTIVE  
WORDING THAT MAY NOT BE  
USED WITH THE REALTOR®  
MARKS UNDER NAR’S BYLAWS?**



## **NO DESCRIPTIVE WORDING**

~~Commercial~~ REALTOR®

~~Residential~~ REALTOR®

~~Illinois~~ REALTOR®

~~Best~~ REALTOR®

~~Your~~ REALTOR®



## PROPER CONTEXTUAL USE



**REALTOR® = MEMBER OF NAR**



**ASSOCIATION TIE-BACK**



**USE THE MEMBER TEST**



**INTENT DOES NOT MATTER**



## PROPER CONTEXTUAL USE

18



AS A REALTOR®, SHE SERVED ON MANY ASSOCIATION COMMITTEES.

REALTORS® HAVE ACCESS TO NAR'S MANY RESOURCES AND BENEFITS.

SARAH IS A REALTOR®, A MEMBER OF THE NATIONAL ASSOCIATION OF REALTORS®.



## INCORRECT CONTEXTUAL USES

19

BEING A REALTOR® IS A  
REWARDING JOB.

WORK WITH A REALTOR® TO FIND  
YOUR DREAM HOME.

CONSUMER AND REALTORS® HAVE  
ENCOUNTERED SIGNIFICANT  
PROBLEMS WITH APPRAISALS.



## CORRECTING IMPROPER CONTEXTUAL USES

20

REPLACE REALTOR® WITH  
“BROKER”, “AGENT” OR “REAL  
ESTATE PROFESSIONAL”.

REPLACE “REALTOR®” WITH “NAR  
MEMBER”.

REWRITE THE SENTENCE TO  
CREATE THE MEMBERSHIP  
TIEBACK NECESSARY TO USE THE  
REALTOR® MARKS.





## MEMBER-SPECIFIC TRADEMARK RULES



### ONLY MEMBERS MAY USE THE MARKS

**ONCE A MEMBERSHIP LAPSES, THAT INDIVIDUAL MAY NO LONGER USE THE REALTOR® MARKS.**

NAR WILL SOON BE SENDING EMAIL MESSAGES TO LAPSED MEMBERS REMINDING THEM THAT THEY MAY NO LONGER USE THE REALTOR® MARKS.



## USE WITH PERSONAL OR BUSINESS NAME

### MEMBER SARAH RODRIGUEZ:

Sarah Rodriguez, REALTOR®

Sarah Rodriguez,  
REALTOR®

### MEMBER FIRM SUNSHINE REALTY, INC.:

Sunshine Realty, REALTORS®



**TRUE OR FALSE: NAR'S  
TRADEMARK RULES APPLY TO  
DOMAIN NAMES, EMAIL  
ADDRESSES AND SOCIAL MEDIA  
USERNAMES?**





## DOMAINS, EMAILS AND USERNAMES

**THE REALTOR® MARKS MAY ONLY “TOUCH” THE NAME, ANY INCLUDED PUNCTUATION, AND FUNCTIONAL ELEMENTS.**

MEMBER SARAH RODRIGUEZ:

sarahrealtor@gmail.com

@chicagosarahrealtor

www.sarahrodriguez\_realtor.com

MEMBER FIRM SUNSHINE REALTY, INC.:

www.sunshinerealtyrealtors.com

www.chicagosunshinerealtyrealtors.com



## BUSINESS NAMES

**MEMBERS MAY NOT USE THE REALTOR® MARKS IN BUSINESS NAMES.**

**THE MARKS MAY BE USED *WITH* BUSINESS NAMES.**

Coastal REALTORS®, Inc.

Coastal Realty, Inc. may use Coastal Realty, REALTORS®

**THE REALTOR® MARKS MAY NOT BE USED IN TEAM NAMES.**

**MEMBERS MAY ONLY USE THE MARKS IN CONNECTION WITH THEIR REAL ESTATE BUSINESS.**





## WHAT QUALIFIES AS A “REAL ESTATE BUSINESS” UNDER NAR’S TRADEMARK RULES?



THE TERM REAL ESTATE BUSINESS SHALL INCLUDE REAL ESTATE BROKERAGE, MANAGEMENT, APPRAISING, LAND DEVELOPMENT OR BUILDING.

**NATIONAL ASSOCIATION OF REALTORS®  
CONSTITUTION**

ARTICLE 3, SECTION 1(5)(a)





# ASSOCIATION-SPECIFIC TRADEMARK RULES



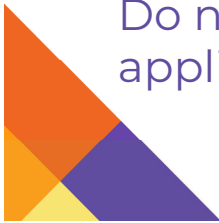
**WHAT STEPS MUST  
ASSOCIATIONS TAKE BEFORE  
FILING A TRADEMARK  
APPLICATION THAT INCLUDES  
THE REALTOR® MARKS?**



## TRADEMARK APPLICATIONS

Associations must enter into a consent agreement with NAR when filing a trademark application for content that includes the REALTOR® Marks. The applied-for mark must comply with NAR's trademark rules.

Do not disclaim the REALTOR® Marks within the application.



## ASSOCIATION CAMPAIGN AND EVENT TITLES

**WHEN THE REALTOR® MARKS ARE USED IN CAMPAIGN, EVENT, PRODUCT OR SERVICE TITLES, THE ASSOCIATION'S NAME MUST IMMEDIATELY PRECEDE, FOLLOW OR OTHERWISE BE INCLUDED IN THE TITLE.**

THE ASSOCIATION LAKESIDE REALTORS® MAY USE:

REALTORS® Care, a program of the Lakeside REALTORS®

Lakeside REALTORS® Care

REALTORS®-Care



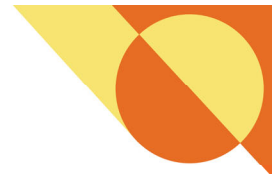
## VIDEOS

**ENSURE PROPER FORMATTING WHEN IDENTIFYING A MEMBER AS A REALTOR®:**

Sarah Rodriguez, REALTOR®  
Cloud Realty, REALTORS®

**SHARE BEST PRACTICES AND SUGGESTED WORDING PRIOR TO FILMING TO ENSURE PROPER CONTEXTUAL USE OF THE REALTOR® MARKS.**

**RE-FILM OR REMOVE IMPROPER USES OF THE REALTOR® MARKS.**



## HOW DO ASSOCIATIONS SUPPORT NAR'S TRADEMARK PROTECTION PROGRAM?





## HOW DO STATE AND LOCAL ASSOCIATIONS SUPPORT NAR'S TRADEMARK ENFORCEMENT PROGRAM?



## ASSOCIATIONS' ROLE IN THE TRADEMARK PROTECTION PROGRAM

**1**  
**EDUCATION**

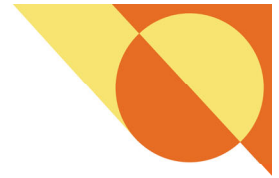
**2**  
**ENFORCEMENT**

**3**  
**HOLDING OF HEARINGS**



# EDUCATION

37

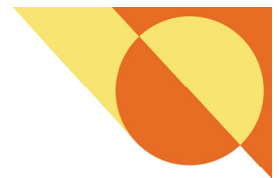


1. NEW MEMBER ORIENTATION
2. PERIODIC TRAINING SESSIONS
3. PROMOTE THE MEMBERSHIP MARKS MANUALS



# ENFORCEMENT

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1. ASSOCIATIONS HAVE A DUTY TO ADDRESS MEMBERS' MISUSES UNDER NAR'S BYLAWS.
2. USE THE SAMPLE LETTERS IN THE MEMBERSHIP MARKS MANUAL FOR ASSOCIATIONS.
3. REVIEW MEMBERS' BUSINESS NAMES, EMAIL ADDRESSES AND DOMAIN NAMES FOR MISUSES.



# HEARINGS

39

A MEMBER'S FAILURE OR REFUSAL TO COMPLY WITH NAR'S TRADEMARK RULES CONSTITUTES A VIOLATION OF THAT MEMBER'S MEMBERSHIP DUTIES UNDER NAR'S BYLAWS AND STATE AND LOCAL BYLAWS.



# THANK YOU.

**Chloe Hecht**

**CALL: 312-329-8248**

**EMAIL: [checht@nar.realtor](mailto:checht@nar.realtor)**



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# APPENDIX 1

## NAR Resource Guide



**SCAN QR  
CODE FOR  
LEGAL  
SESSION  
RESOURCES**

