Drafting Findings of Fact

General Guidelines

What are Findings of Fact?

Written facts that summarize the evidence presented at the hearing by the parties.
Supporting facts that detail the violation found, if any, and the decision made.

Or declaration that facts were not sufficient to prove a violation—if that is the case.

Who reads Findings of Facts?

Complainant & Respondent want to know...
Why was decision made?

Directors at ratification of discipline need to know...

Do facts support decision & discipline?

Directors upon a requested review need to know...
Was rule misinterpreted or misapplied?

How to write Findings of Facts

Use relevant information only.

Use brief factual statements.
Statements should either support a violation was found or that a violation was not found.

Facts should be...

Written for each allegation separately.

Written for each Respondent separately.
Written immediately after deliberation.

How should Facts be written?

Use form D-11 for short facts.

Use extra paper for longer facts.
Use laptop computer or iPad to write facts.

Who writes Findings of Facts?

Presiding officer is responsible for Findings of Facts.

All panel members contribute and sign decision.
The preferred format...

Cite section(s) of articles or rules alleged.

Draft brief factual statements in chronological order that support decision.

Conclude with decision of panel.
1. Article 12 states in part: “Realtors® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations…”

2. Standard of Practice 12-7 states in part: “Only Realtors® who participated in the transaction as the listing broker or cooperating broker (selling broker) may claim to have “sold” the property…”

3. REALTOR® A from Acme Realty, the Complainant, was the listing agent for the subject property located at 4321 Main Street.

4. REALTOR® C from Crooks R Us Realty, is the Respondent in this action.

5. Complainant presented the closing statement and MLS printout from the subject property transaction proving that REALTOR® B from Big Deal Realty, represented the buyer.
6. After escrow closed, REALTOR® C advertised on his website and on a mailer that he "sold" the subject property.

7. REALTOR® C did not participate in the transaction in any manner whatsoever and was unable to demonstrate any connection to the subject property.

8. Based on evidence reviewed and testimony received, the panel finds REALTOR® C violated Article 12 of the Code of Ethics as defined and further supported by Standard of Practice 12-7 by advertising that he “sold” the subject property.

Review what is written

When the Complainant & Respondent read the Findings of Fact, will they understand why the panel made their decision?

When the Directors read the Findings of Fact without any other info from the file, will they have enough information to ratify the discipline recommendation?

If the Hearing Panel considers prior violations and sanctions in making its recommendation of discipline, the rationale for the current disciplinary recommendation can be provided to the parties and the Directors as part of the decision.
Example #2

1. Article 15 states, "Realtors® shall not knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices."

2. Realtor A, the Complainant, is from Best Realty, located in Niceville, from the FarOut Association of REALTORS®.

3. Realtor B, the Respondent in this action, is from Brown Realty, located in Oldtown, from the RealClose Association of REALTORS®.

4. Both the Complainant and Respondent had made listing presentations to the sellers of 1234 Main Street, Oldtown.

5. The sellers signed the listing agreement with Realtor B, the Respondent, and the property subsequently sold and closed escrow.

6. After close of escrow, the complainant met the seller at a fundraising event and the seller stated that they really had liked the presentation from Realtor A, the Complainant, but felt they “had to list” with Realtor B because he had pointed out that Realtor A was from another city and association, and therefore “local agents would not show the listing or be cooperative” and the property would take “much longer to sell if the seller used an agent from outside the local area.”

7. Realtor A presented evidence of his MLS printouts and statistics showing many sales in Oldtown, the same city as the sellers’ property was located- which did not support any longer sale times than the average for the area.

8. Realtor A presented a sworn affidavit from the sellers stating they would have listed with Realtor A, but for the misinformation from Realtor B regarding “longer sales time” when an agent from another city is used.
9. The panel concluded that Realtor B’s statements regarding out of the area listing agents were “false and reckless” and therefore found the Respondent, Realtor B in violation of Article 15.

10. The panel also notes that the Respondent has had two previous violations of the Code of Ethics which benefited him economically, which supports the panel’s recommendation of the maximum fine.

Other Possible Clauses

No violation found:

There was insufficient evidence presented to prove the Respondent violated Article X, therefore the panel finds no violation.

OR

There was no evidence presented regarding Article X, therefore the panel finds no violation.

Remember

The Panel’s job is not done until the paperwork is completed!