CALIFORNIA ASSOCIATION OF REALTORS®

Minutes

www.car.org

October 6 – 9, 2010

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CALIFORNIA ASSOCIATION OF REALTORS® EXECUTIVE COMMITTEE
Anaheim Marriott Hotel
Anaheim, California

CALL TO ORDER

The meeting was called to order by President Steve Goddard at 10:00 a.m. on October 6, 2010.

ATTENDANCE

Members Present: President Steve Goddard, President-Elect Beth L. Peerce, Treasurer Don Faught, Darnella Barnes, Sharon Bowler, Eva Garcia, Ed Herold, Patricia Hicks, Mickey Knickerbocker, James Liptak, Vince Malta, Jared Martin, Allen Okamoto, Mark Peterson, Mary Rovarino, Joel Singer (Ex-Officio), Judy Zeigler

Also Present: 2010 Regional Chairs, 2010 Committee Liaisons

Parliamentarian: Tim Hegstrom

Staff Present: Helen Parrino, Rick Shumacher

APPROVAL OF MINUTES

It was Moved, Seconded and CARRIED to approve the minutes of the June 9 - 12, 2010 meeting in Sacramento, California, and of the September 21, 2010 special meeting in Los Angeles, California.

REPORT OF THE PRESIDENT

President Goddard commented on the real estate market and the economy, and reported on several of the significant issues expected to be discussed in committees during the week, including the C.A.R. Budget and Strategic Plan, several of the legislative and public policy issues, and the recommendations of the Nominating Committee Working Group. He also asked for feedback on the EXPO program and activities.

REPORT OF THE PRESIDENT-ELECT

President-Elect Beth L. Peerce spoke about the committee selection process for 2011, and reported that the Regional Chairs discussed a number of issues.

REPORT OF THE TREASURER

Treasurer Don Faught, Chair of the Strategic Planning and Finance Committee, reported on the state of the Association's finances

Strategic Planning and Finance

The Executive Committee reviewed the Strategic Planning and Finance Committee's budget and strategic plan proposal and other recommendations at the September special meeting.

See consent agenda, Attachment A, for additional Strategic Planning and Finance action items approved by the Directors.

REPORT OF THE EXECUTIVE VICE PRESIDENT/STATE SECRETARY

Executive Vice President and State Secretary Joel Singer reported on the progress of the Association's subsidiaries.

CONSENT AGENDA

It was Moved, Seconded and CARRIED to approve the Consent Agenda as presented.

See Consent Agenda Action Items – Attachment A

COMMITTEE REPORTS

CREPAC
Irma Vargas, Chair

It was reported for information only that the following slate of CREPAC Trustees and Alternates would be presented to the Board of Directors for election at this meeting.

NOMINEES FOR CREPAC TRUSTEE
(November 2010 - November 2013)
Steve Reiser, Region 5
Dorothy Jackson, Region 6
Susan Davis, Region 12
Candice Carpenter, Region 21
Cas Pinkowski, Region 32

NOMINEES FOR CREPAC ALTERNATE
(November 2010 - November 2011)
Terriann McGowan, Region 4
Barbara J. Palmer, Region 10
Debbie Rodgers, Region 11
Frank Nelson, Region 14
Gregory Pawlik, Region 17
Marjorie McLaughlin, Region 24
Geoffrey Craighead, Region 25
James Irving, Region 31

Action of Directors: Trustees and Alternates Elected

Note: Mark Marchand, Region 30, whose name had been on the original slate of Alternate nominees as an Association Executive, withdrew from consideration prior to the election because he is no longer serving as Association Executive at this time.

It was further reported for information only that the CREPAC Trustees contributed $553,400 to bi-partisan candidates for State Assembly and State Senate campaigns. CREPAC contributed $406,500 to the Democratic and Republican Parties. CREIEC (California Real Estate Independent Expenditure Committee) contributed $1,835,694.00 for 2010 Primary and General Election campaigns.

Housing
LeFrancis Arnold, Chair

It was Moved, Seconded and CARRIED, that C.A.R. "SPONSOR" legislation to extend the fee limitation of existing law (California Civil Code 1368) to companies retained by HOAs that provide requested documents/materials required of HOAs under current law.

Action of Directors: Approved

It was Moved, Seconded and CARRIED, that C.A.R., in conjunction with NAR, "OPPOSE" the creation of a National Down Payment Assistance Program.

Action of Directors: Approved

It was Moved, Seconded and CARRIED, that C.A.R., in conjunction with NAR, "OPPOSE" the imposition of any new private transfer fees, but allow for federal financing of properties with existing private transfer fees.

Action of Directors: Approved

It was Moved, Seconded and CARRIED, that C.A.R., in conjunction with NAR, seek to extend the current Temporary FHA condo Approval Requirements that are set to expire at the end of the year. These are:
a. Maintaining the FHA concentration level at 50% and not letting it decrease to 30%.
b. Pre-sale requirements be maintained at 30% and not increase to 50%.

In light of current economic conditions, FHA should reconsider some of its FHA approval criteria specifically:
a. Raising the cap on the percentage of units one entity may own from the current 10 percent.
b. Raising the cap on the percentage of units that can be in arrears (more than 30 days past due) from the current 15 percent.
c. Create an "excellent buyer exception." The Working Group believes if the homebuyer in the transaction is an excellent buyer, FHA should make the condo qualifying requirements less restrictive. The Working Group felt FHA should work to get this type of homebuyer into condominium projects to help stabilize them.

Action of Directors: Approved

IMPAC
Don Scordino, Chair

It was reported for information only that the following slate of IMPAC Trustees and Alternates would be presented to the Board of Directors for election at this meeting.

NOMINEES FOR IMPAC TRUSTEE
(November 2010 - November 2013)
Paula Colombo, Region 3
Mary Chatton Brown, Region 5
Alice McCain, Region 18
Richard Tegley, Region 23
Leslie Munger, Region 28

NOMINEES FOR IMPAC ALTERNATE
(November 2010 - November 2011)
Tracy Shumard, Region 01
Anita Thede, Region 06
Lisa Muetterties, Region 07
RoseMarie McNair, Region 10
Lynn Heintz, Region 12
Patricia Douglas, Region 17
Carl San Miguel, Region 19
Paula Cosenza, Region 32

Action of Directors: Trustees and Alternates Elected

Note: Due to a vacancy resulting from a withdrawal of one candidate for Trustee which occurred at the last meeting, the Directors were notified that Alternate Nominee Alice McCain would be a Nominee for IMPAC Trustee for the term November 2010 – November 2013.

It was reported for information only that the IMPAC Trustees authorized the following contributions:

$50,000 to the group Citizens Protecting the Rights of Property Owners (CPRPRO) towards previous and current legal fees incurred in a fight to preserve property owner's the rights to both Private Home Rentals (PHRs) and 1031 exchanges associated with vacation rentals in the City of Big Bear Lake.

$10,000 to the Silicon Valley Association of REALTORS® for the No on Measure Q campaign. A ballot box planning measure. Interboard solicitations were also authorized.

$65,000 to the Save our Rural Economy campaign to stop proposed downzoning in San Diego County. Interboard solicitations were also authorized.

It was reported for information only that IMPAC will send a letter to local associations who have not used their IMPAC funds in a two-year period, alerting them to the possible uses of their Local IMPAC funds.

It was reported for information only that IMPAC will create a working group to determine the best approach to communicate the availability and use of State and Local IMPAC funds.

Land Use and Environmental
Phyllis Carmichael, Chair

It was Moved, Seconded and CARRIED, that C.A.R. adopt a “FOR” position on Proposition 23: Suspension of AB 32, Green House Gas Emissions Reductions Rules and Regulations. Initiative Constitutional Amendment.

Action of Directors: Amended to adopt a “NEUTRAL” position

Legal Action Fund
Clay Sigg, Chair

It was reported for information only b that the Legal Action Fund Trustees approved $60,000 to fund filing a copyright infringement case to protect C.A.R.'s forms against a company that has included C.A.R. forms in its software without authority.

It was reported for information only that, in the case of Harrison v. Sierra Dawn HOA, relating to whether a Homeowner's Association can amend the governing documents of the Association to restrict rental activities the case was lost on appeal in an unpublished case. The parties sought review before the California Supreme Court which was denied. Shortly thereafter, the C.A.R. sponsored bill AB 1927 on this same subject was vetoed by the Governor.

Legislative
Pat "Ziggy" Zicarelli, Chair

It was Moved, Seconded and DEFEATED, with 7 votes in favor and 8 votes opposed, that C.A.R. take a position of "AGAINST" on Proposition 27, a proposed constitutional amendment to return control of the drawing of legislative districts to the legislature.

It was Moved by Sharon Bowler, Seconded and CARRIED, with 8 votes in favor and 7 votes opposed, that C.A.R. take a position of "NOT REAL ESTATE RELATED" on Proposition 27, a proposed constitutional amendment to return control of the drawing of legislative districts to the legislature.

Action of Directors: Amended to adopt a "NOT REAL ESTATE RELATED" position

It was Moved, Seconded and CARRIED, that C.A.R. take a "NOT REAL ESTATE RELATED" position on an as yet unnumbered position for the 2012 ballot to change legislative term limits.

Action of Directors: Approved

Membership
John Torres, Chair

See Consent Agenda (Attachment A) for an action item from the Membership Committee.

MLS/Computer and Business Technology Committee
Bill Podley, Chair

It was Moved, Seconded and CARRIED, that, upon final approval by NAR, the C.A.R. Model MLS Rules be revised to clarify proper listing compensation procedures as follows:

7.15.2 Lender Approval Listings. Compensation offered through the MLS to cooperating brokers on listings which require lender approval (commonly referred to as "short sale" listings) is for the amount published therein unless the listing broker indicates on the MLS the following: (a) the fact that the sale and gross commission are subject to lender approval; and (b) the amount or method by which the compensation offered through the MLS will be reduced if the lender reduces the gross commission. <u>This section does not allow an additional reduction from the commission offered for items such as a short sale negotiator fee or other administrative costs of the transaction. Any reductions from the commission offered for such items should be factored in as a reduced amount the listing broker initially offers to a cooperating broker and may not be made a condition of the offer.</u>

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12.5 Misuse of Remarks. Information in the public remarks shall only relate to the marketing, description and condition of the property. No contact information is permitted, including names, phone or fax numbers, email addresses or website addresses (including virtual tours and transaction tracking URLs). No showing instructions are permitted, including references to lockbox, alarm, gate or other security codes, or the occupancy of the property (a statement that the property shall be delivered vacant is not a violation of this section). No information directed toward real estate agents or brokers, including compensation or bonuses offered to cooperating brokers may be shown in public remarks. No information other than the marketing, description and condition of the property is permitted. Participants and Subscribers may not use the remarks in a property data profile sheet or listing submitted to the MLS or inputted directly into the MLS database for purposes of disparaging other real estate agents or conveying information about other offices or for conveying any other information that does not directly relate to the marketing of the listing. Participants and Subscribers may not use the remarks to obscure or hide the actual amount of commission offered in the required field of compensation.

Action of Directors: Approved

It was Moved, Seconded and CARRIED, that, upon final approval by NAR, the C.A.R. Model MLS Rules be revised in accordance with the recommendations of the MLS Rules Work Group as follows:

a. That intellectual property updates, clarifications and protections including Data Base, Copyright and Other Issues be included in the Model MLS Rules;

b. That the photo rules be amended (i) to require written authorization from the prior listing broker or other appropriate party with the legal right to reproduce and display such photographs, (ii) to prohibit branding of photographs, virtual tours or any other photographic representations, including displaying/adding additional images, including but not limited to photos displaying “for sale” signs posted on the property and (iii) to mandate that at least one (1) photo or graphic image accurately displaying the listed property (except where sellers expressly direct that photographs of their property not appear in MLS compilations) be required to be posted on the MLS within 3 days of submission of the listing in all categories other than business opportunity;

c. That a rule be added to require Participants or Subscribers to be present on the property at all times when enabling access to a listed property unless the seller has consented otherwise;

d. That additional lockbox and key use rules be added providing (i) that key use and the contents of a lockbox only be used for the purpose of facilitating sale or lease of listed property, (ii) that a lockbox be removed within (1) day after escrow closes or expiration/cancellation of the listing since the operative listing agreement is no longer in place and (iii) that Participants and Subscribers who utilize lockboxes (and so indicate on the MLS) be required to use the

designated or authorized lockbox required by the MLS where the listing is submitted;

e. That the Model's generic "active" "pending" "sold" statuses be replaced with the defined and comprehensive approach set forth in the IBP;

f. That the Model VOW rules (i) limit the number of listings which can be displayed to 500 current (and 500 sold since VOWs rules are required to allow solds) per inquiry and (ii) require reconfirmation of a password every 90 days.

Action of Directors: Approved

It was Moved, Seconded and CARRIED, that, upon final approval by NAR, the Model Citation Policy be adopted into the C.A.R. Model MLS Rules.

Action of Directors: Approved

See Attachment B for Proposed MLS Model Citation Policy

Nominating
Colleen Badagliacco, Chair

It was reported for information only that revisions were made to the Nominating Committee Confidentiality Agreement. Further changes have been proposed to the C.A.R. Campaign Guidelines, which will be presented at the Winter Business Meetings in January of 2011.

Standard Forms Advisory
Lannie Mott, Chair

It was reported for information only that there were 7 Regional Representatives present at the Standard Forms Advisory Committee (SFAC) meeting. None of the representatives had any reports regarding Standard Forms. The SFAC reviewed drafts of 1 new and 15 revised forms scheduled for release in November 2010, including the new Short Sale Information Advisory (SSIA) which will replace the Short Sale Listing Agreement (SSL). A few minor changes to the draft forms were approved. The committee also received a status update regarding the work from the Property Management Study Group. The proposed forms from this study group will be considered by the SFAC prior to our next business meetings. Additionally, the SFAC was provided with a copy of the updated Combined Earthquake Hazards booklet which now includes the Homeowner's Energy Rating Systems (HERS) booklet. Finally, it was reported that the SFAC reviewed all of the approximately 57 comments received.

Strategic Planning and Finance
Don Faught, Chair

See the Treasurer's Report above, and see the Consent Agenda (Attachment A) for additional action items from the Strategic Planning and Finance Committee.

Taxation and Government Finance
Dennis Badagliacco, Chair

It was Moved, Seconded and CARRIED, that C.A.R. change its position to "SUPPORT" legislation resurrecting the senior citizens and disabled citizens property tax postponement program.

Action of Directors: Approved

It was Moved, Seconded and CARRIED that C.A.R. adopt a “NOT REAL ESTATE RELATED” position on the following ballot measures:

Proposition 21: State Parks and Wildlife Conservation Trust Fund Act. Initiative Constitutional Amendment.
Proposition 24: Repeal Corporate Tax Loopholes Act. Initiative Constitutional Amendment.
Proposition 25: Passing the Budget on time Act of 2010. Initiative Constitutional Amendment.
An as yet unnumbered Proposition: HOPE 2010 California Cancer Research Act. Initiative Constitutional Amendment.

Action of Directors: Approved

It was Moved, Seconded and CARRIED that C.A.R. adopt a “NEUTRAL” position on the following ballot measures:

Proposition 22: Local Taxpayer, Public Safety and Transportation Protection Act of 2010. Initiative Constitutional Amendment.
Proposition 26: Increase the Vote Requirement for State Levies and Charges to Two-Thirds. Initiative Constitutional Amendment.

Action of Directors: Approved

Transaction and Regulatory
Liz Claus, Chair

It was Moved, Seconded and CARRIED, that C.A.R. “SPONSOR” legislation similar to SB 1178 (Corbett) that will expand the anti-deficiency protections that are currently available for purchase money mortgages to a loan refinancing the debt, or additional mortgage debt incurred to acquire, construct or improve the home.

Action of Directors: Approved

It was Moved, Seconded and CARRIED, that C.A.R. “SPONSOR” legislation to implement the office manager registration recommendation proposed in the DRE Broker Supervision Task Force.

The legislation would provide that:
a. An individual Broker or designated officer of a corporation can employ associate real estate brokers or qualified salespersons to manage and supervise branch office operations, divisions and other salespersons in accordance with rules procedures and systems established by the principal broker to establish operations.
b. There must be a broker/manager contract between the principal broker and the manager detailing the duties to be performed.
c. No real estate salesperson with less than two years full time experience shall be eligible to be appointed.
d. No holder of a restricted license shall be eligible to be appointed.
e. The principal broker shall notify the DRE of the appointment in a format specified by the Commissioner.
f. The designated manager shall be subject to disciplinary action, potentially along with the appointing broker or corporate officer, for failing to properly

supervise the licensed activities performed within his or her area of responsibility.

Action of Directors: Approved

It was Moved by Liz Claus, Seconded and CARRIED, that C.A.R. “SPONSOR” legislation to allow DRE to issue citations for minor infractions, the penalty for which could be a fine up to $1000. The legislation would provide that the citation could be appealed by a licensee through the current hearing process, and that there would be no public record of the citation.

Action of Directors: Approved

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:50 a.m. on October 9, 2010.

ATTACHMENT A – CONSENT AGENDA

CONSENT AGENDA

Membership

1. That the following applicants be granted C.A.R. Honorary Member-for-Life status:

Amador County AOR
Elaine Rebello

Arcadia AOR
Retha Wells

Bakersfield AOR
Ben Batey
Paul Wagner

Bay East AOR
Lillian Cozart
Pat Fracisco
Emil Oxsen
Will Schwenning

Berkeley AOR
Barbara Conheim
Marilyn Pursley

Beverly Hills/Gtr LA AOR
Ron Abrams
Peter Chorebanian
Inga Cohen
Asher Dann
Elinor Davis
Bernice Epstein
Richard Franklin
Thomas Gilleran
Theodora Kinder
Victoria Lockwood
Delphine Mann
Marjorie Oswald
Jerry Oubre
Adda Smilove
Lillian Wyshak
Big Bear AOR
John Reynen

California Desert AOR
Fred Cimino
Mary Cross
Robert Lee Horn

Central Valley AOR
Sarkis Babayans
David Dinubilo
Lorrie Docter
Eugene Guzman
Paul Jacobs
Bob Riggs
Donna Strickler
Howard Triplett

Chico AOR
Lois Cooper

Coastal Mendocino AOR
Arthur Love

Conejo Simi Moorpark AOR
Sandy Kiffe
Curtis Minor
June Murray
Tom Murray
Richard Young

Contra Costa AOR
George Irvin

Delta AOR
Steve Marciel

Desert Communities AOR
George Gibbs

Downey AOR
Judy Jacobson
Maria Larkin
Luis Valdes

East San Diego County AOR
Colleen Chiles
Clara Davis
Doris Fifer
Bob Parker

Greater Antelope Valley AOR
Joyce Axley
Donald Holloway
Delores Julian

Hetch Hetchy AOR
Shirley Colley

Inglewood BOR
Vennie Liddell

Inland Valleys AOR
Dottie Delcoure
Julia Musgrove

Kings County BOR
Betty Ramos

Laguna BOR
Jeanne Devlin

Lodi AOR
Rose Marie Mendonca

Malibu AOR
Richard O'Keefe
Marie Stapel
Jack Stern

Merced County AOR
Dido Krotik

Monterey County AOR
James McPherson
Merle Murphy

Nevada County AOR
Lowell Duval
Clarence Goedicke
Clarice Mumm
Lois Robinson
Irene Starr

Newport Beach AOR
Bonnie Barrington
Mary Lou Kiehler

North Bay AOR
Alice Asper
James Covington
Elma Hart
Pauline Schneider

North San Diego County AOR
Sam Fernandez
Betty Ferrell
Alice Gieseler
Bruce Smitham
Roberta von Voelker

Ojai Valley BOR
Orville Hernvall

Orange County AOR
Manuel Adame
Morlene Atkinson
Dottie Edwards
Mary Jo Eidemiller
Bill Fitzpatrick
Alma Hanneman
Chuck Kenney
Lois KuCala
Cirilo Salazar
Sunny Tamblin
James Webb
Al Yarrington

Pacific West AOR
Dottie Black
Martha Judge
Mary Ann Koster
Leonard Uzan

Pasadena-Foothills AOR
Joyce Kristensson

Placer County AOR
Barbara Clark
Rancho Southeast AOR
Laverne Bates
Cliff Hall
Scott Murdoch

San Francisco AOR
Charles McFadden
Adela Penner
Daniel Powers
Efren Velasco

San Luis Obispo AOR
Lori Jolicoeur

San Mateo County AOR
Leonard Bialer
Jon Cellitti
Claire Earley
George Edsell
Margaret Galante
Patrick Kinsella

Verne Laughton
Robert Marshall
Donald McFarland

Santa Barbara AOR
Sharleen Jessup
Gary Maxwell
Jim Webster

Santa Clara County AOR
Robert Biggs
Angelo De Manti

Santa Cruz County AOR
Harriet Deck
Lisa Laznicka
Susan C. Page

Santa Maria AOR
Sidney Hubbard
Charles Whitford

Shasta AOR
Jack Herrin
Pat Rose
Bob Stone
Silicon Valley AOR
S.Tom Barton
Jenora Lovell
Manuel Macias
Manuel Moreno

Southland Regional AOR
Chester Anderson
Patricia Chiarodit
Marian Curran
Fred Darian
Carol Fox
Coye Garner
Paul Korb
Rhoda Lambert
Arlene Levand
Ruby Madison
Pamela Mc Donald
Frances Monti
Carolyn Nierman
Patricia Porter
Frank Randa
Mukhtiar Sagoo
Doris Sampson
Pauline Tallent

Adrian Van Rijs
Temmy Walker
Gage Wilson

Southwest Los Angeles AOR
Herman Ward

Tulare County AOR
Albert Machado
Louise McFatridge
Jackie Pemelton

Tuolumne County AOR
Norman Beyer
Bill Horne
Sunny Seabrook

Ventura County Coastal AOR
Rachel Adame
Jennie Ballard
Donna Campbell
Randy Churchill
Donald Dawson
Paul Hawblitzel
Esther Hylan
Irving Rabowsky

Victor Valley AOR
William Alves

Yolo County BOR
Jack Willis

Yosemite Gateway AOR
Thomas Kroon
Janet Morriset Morris

2. That the Statement of Operating Income and Expenses by program for the eight months ending August 31, 2010 be approved.

CONSENT AGENDA

Strategic Planning and Finance

Total C.A.R.
Operating Revenue of $23,576,600
Operating Expenses of $16,196,300
An excess of operating income over expenses of $7,380,300

Political Activities Fund
An excess of income over expenses of $2,230,800

Issues Action Fund
An excess of income over expenses of $1,130,800

The C.A.R. Balance Sheet as of August 31, 2010
Total assets of $67,204,100 (of which $51,051,600 are current assets)
Total liabilities of $3,925,100 (of which $3,244,100 are current liabilities)
C.A.R. Fund Balance of $63,279,000

3. That the Projected Statement of Operating Income and Expenses by program for the year ending December 31, 2010 be approved.

CONSENT AGENDA

Strategic Planning and Finance

Total C.A.R.
Operating Revenue of $27,203,900
Operating Expenses of $25,878,400
An excess of operating income over expenses of $1,325,500

Political Activities Fund
An excess of income over expenses of $1,729,400

Issues Action Fund
An excess of income over expenses of $704,500. This amount will be allocated to IMPAC as approved by the Directors.

ATTACHMENT B

Proposed MLS Model Citation Policy (California Model MLS Rule 14.3) (October 7, 2010)

The purpose of this citation policy is to ensure the integrity of the MLS including the currency and accuracy of its information. Fines will be issued and processed in accordance with this Citation Policy. The citable offenses and fines are subject to change upon approval of the AOR/MLS Board of Directors. The Citation Policy is in addition to and does not replace the provisions of Section 14 of the C.A.R. Model MLS Rules.

A. For the purpose of the Fine Schedule, the number of violations will be tracked on a calendar year basis. On the first day of each calendar year the violation count for each MLS member will be reset to zero (0). **[Note: while a one (1) year reset period is set forth as the default in this section, it is recommended that MLSs set the reset clock in the range of one (1) to four (4) years; an MLS could also opt for no reset]**

B. A listing that contains one or more violations of the Citation Policy is considered a violation event for purposes of the Fine Schedule regardless of the category or nature of the violation.

C. A listing that contains more than one violation on the same day will be treated as a single violation for purposes of the Fine Schedule. Multiple violations that occur on the same day but are reported separately are treated as a single violation.

D. A violation must be corrected within two (2) calendar days of notice of violation sent to the Violator and/or Responsible Participant. Receipt of notice is presumed to be the sooner of three (3) calendar days after mailing or one (1) calendar day after email or facsimile transmission. Failure to correct a noted violation within the two (2) day time period allotted will result in a new violation for the uncorrected violation with the associated fine for that level of violation. Failure to correct a violation within the two (2) day correction period may also subject a non-conforming listing to removal by the MLS from active display. New violations may be issued for any remaining uncorrected violations until the violations are corrected or the maximum fine is reached as set forth below.

E. The fine amount is determined by the total number of violations accumulated by each MLS member during a calendar year. **[Note: if a different time period from one (1) year is elected in A. above, then that time period should be reflected here]**

F. Fines are due within fifteen (15) calendar days of receipt of a violation notice. Receipt of notice is presumed to be three (3) business days after mailing or one (1) calendar day after email or facsimile transmission.

G. If a Violator believes that a violation notice and fine was issued in error, the Violator may request a hearing in accordance to the procedures set out by their MLS/AOR. Prior to requesting a hearing, the violation must be corrected.

H. Failure to pay assessed fines may result in suspension of MLS privileges as detailed in Paragraph 17.1 of the MLS Rules and Regulations.

I. The MLS Committee and/or the Board of Directors reserves the right, at its discretion, to charge a Participant or Subscriber with rules violations by virtue of the hearing process, including the possibility of additional fees or fines, suspension or expulsion, rather than utilizing the citation process. Thus, the below fines may not be all inclusive. Any Participant or Subscriber who accumulates in excess of 5 (five) violations in one calendar year, unless otherwise specified, may be referred to the MLS Committee and/or the Board of Directors for a review to determine whether or not further discipline and possible suspension of MLS service is warranted.

J. Reporting of violations will remain confidential.

K. The violation fine schedule is as follows:

Tier One:
First Violation: Warning Letter
Second Violation: Attend Class in Lieu of Fine (if such class offered by AOR/MLS) or $____ **[Note: Selection of a fine amount ranging from $100 to $250 is recommended].**
Third and Subsequent Violations: $___ **[Note: Selection of a fine amount ranging from $300 to $1,000 is recommended].**

If such a class if offered by the AOR/MLS and if the Violator opts to attend a compliance training class in lieu of paying the fine for a Second Violation, the Violator will pay a $50.00 non-refundable one-time fee and complete the course within a 60-day period. The Violator will be given the opportunity for one make-up session only. Failure to complete the make-up session will result in assessment of the full fine amount set forth for a Second Violation.

As set forth in Section D above, violations must be corrected within two (2) calendar days of notice. Violations which remain uncorrected subject the violator to the imposition of new penalties and removal of the listing from active display.

The maximum accumulated fine for a single violation may not exceed the top amount of $15,000 allowed by NAR for assessment of financial penalty. If the maximum accumulated fine amount has been assessed and the violation has not been corrected, the Violator's MLS privileges may be suspended until all accumulated fines have been paid and the noted violation has been corrected.

Tier One Offenses are as follows:

1. Non-Completion of Required MLS Orientation Program Within Set Time Allowed [Rule 4.0 (*Orientation*)]
2. Failure of Participant or Subscriber to Notify the MLS of Termination, Transfer, or Addition of Any Clerical Users Affiliated with Participant or Subscriber [Rule 4.3 (*Notice re Clerical Users*)]
3. Failure of Participant to Notify the MLS of Termination, Transfer, or Addition of any Licensees Under Participant's License [Rule 4.4 (*Notice re Licensees*)]
4. Failure to Properly Designate/Correlate License Type [Rules 4.1.3, 4.2.3 *(Redundant Participant/Subscriber Qualifications)*]
5. Failure to Properly Specify Listing Type or Class [Rules 7.2-7.3 (*Listing Type or Class*)]
6. Failure to Update/Change Listing Information [Rule 7.8 (*Change of Listing Information*)]
7. Unauthorized Cancellation/Withdrawal of Listing [Rule 7.9 (*Cancellation/Withdrawal of Listing Prior to Expiration*)]
8. Failure to Provide Complete Listing Information [Rule 7.11 (*Detail on Listings*)]
9. Failure to Offer Unconditional Compensation [Rule 7.12 (*Unilateral Contractual Offer*)]
10. Failure to Comply with Auction Listing Requirements [Rule 7.24 (*Auction Listings)*]
11. Failure to Input Accurate Information [Rule 8.3 (*Accuracy of Information; Responsibility for Accuracy*)]
12. Failure to Timely Report Listing Status Changes and Sales [Rule 10.2 (*Reporting of Sales*)]
13. Failure to Timely Report Cancellation of Pending Sale [Rule 10.4 (*Reporting Cancellation of Pending Sale*)]
14. Wrongful Use of Photographs/Use of Photographs on a Listing Without Proper Authorization [Rule 11.5 (*Photos*)]
15. Misuse of Public Remarks; Failure to Limit Public Remarks to Marketing, Description and Condition of the Property [Rule 12.5 (*Use and Misuse of Remarks*)]
16. Unauthorized Use of Term "Sold" [Rule 12.7 (*"Sold" Signs and Use of the Term "Sold"*)]

17. Unauthorized Advertisement of Listing of Another Broker [Rule 12.8 (*Advertising of Listing Filed with the MLS*)]
18. Unauthorized Use of Statistical Reports, Sold Data or Comparable Reports in Advertising [Rule 12.9 (*Limitations on Use of Information in Advertising*)]
19. Failure to Provide Adequate Informational Notice on Print or Non-Print Forms of Advertising or Other Forms of Public Representations [Rule 12.9 (*MLS Information in Advertising*)]

Tier Two:

First Violation: Warning Letter
Second Violation: $____ **[Note: Selection of a fine amount ranging from $200 to $500 is recommended].**
Third and Subsequent Violations: $___ **[Note: Selection of a fine amount ranging from $500 to $2,000 is recommended].**

As set forth in Section D above, violations must be corrected within two (2) calendar days of notice. Violations which remain uncorrected subject the violator to the imposition of new penalties and removal of the listing from active display.

The maximum accumulated fine for a single violation may not exceed the top amount of $15,000 allowed by NAR for assessment of financial penalty. If the maximum accumulated fine amount has been assessed and the violation has not been corrected, the Violator's MLS privileges may be suspended until all accumulated fines have been paid and the noted violation has been corrected.

Tier Two Offenses are as follows:

1. Failure to Comply with "Certification of Nonuse" (back fees owing under Certification to be cumulatively added to citation amount) [Rule 5.1.6 (*Certification of Nonuse*)]
2. Failure to Input a Required Listing [Rule 7.5 (*Mandatory Submission*)]
3. Failure to Provide Signed Seller Exemption [Rule 7.6 (*Exempted Listings*)]
4. Entry of a Listing as New after Withdrawn without a New or Amended Listing Contract [Rule 7.8 (*Change of Listing Information*)]
5. Failure to Disclose Interest by a Broker Participant or R.E. Subscriber in the Subject Listing [Rule 7.17 (*Broker/Agent as Principal*)]
6. Failure to Remove Expired Listing; Failure to Obtain Seller's Written Authorization before Extension/Renewal [Rule 7.19 (*Expiration, Extension and Renewal of Listings*)]
7. Failure to Disclose Dual Variable Commission [Rule 7.22 (*Dual /Variable Rate Commissions*)]
8. Prohibited Co-Listing [Rule 7.25 *(Co-Listing)*]
9. Violation of DOM/CDOM Calculation [Rule 7.26 *(Days on Market/Cumulative Days on Market Calculation)*]
10. Failure to Provide Appropriate Written Documentation of Listing [Rule 8.2 (*Written Documentation*)]
11. Failure to Correct Incomplete or Inaccurate Information after MLS Notification [Rule 8.3 (*Accuracy & Correction*)]
12. False Representations; Failure to Abide by True Picture Standard of Conduct [Rule 12.10 (*False or Misleading Advertising and Representations*)]
13. Violation of Competency Standard [Rule 12.21 *(Participant and Subscriber Standards of Conduct)*]
14. Failure to Timely Remove Lockbox after COE or Expiration/Cancellation of Listing [Rule TBA (*Lockbox Removal*)]

Tier Three:

First Violation: Warning Letter
Second Violation: $____ **[Note: Selection of a fine amount ranging from $500 to $1,000 is recommended].**
Third and Subsequent Violations: $___ **[Note: Selection of a fine amount ranging from $1,000 to $5,000 is recommended].**

As set forth in Section D above, violations must be corrected within two (2) calendar days of notice. Violations which remain uncorrected subject the violator to the imposition of new penalties and removal of the listing from active display.

The maximum accumulated fine for a single violation may not exceed the top amount of $15,000 allowed by NAR for assessment of financial penalty. If the maximum accumulated fine amount has been assessed and the violation has not been corrected, the Violator's MLS privileges may be suspended until all accumulated fines have been paid and the noted violation has been corrected.

Tier Three Offenses are as follows:

1. Failure to obtain sellers authority to list in MLS [Rule 8.1 (*Listing Agreement and Seller's Permission*)]
2. Failure to be Present when Providing Access to a Listed Property to Buyers and Potential Buyers [Rule TBA (*Presence of Participant or Subscriber*)]
3. Failure to timely notify of DRE or OREA adverse action [Rule 12.1 (*Notification of California Department of Real Estate (DRE) or California Office of RealEstate Appraisers (OREA) Action*)]
4. Unauthorized Use of MLS Information [Rule 12.11 (*Use of MLS Information*)]
5. Unauthorized Sharing of MLS Information and Pass Codes; Use of MLS by Unauthorized Party [Rule 12.12 (*Confidentiality of MLS Information*)]
6. Unauthorized Clerical User Access and Use of MLS Information [Rules 12.12.1, 12.14.1 (Clerical Users)]
7. Misuse of Reproduction of MLS Information [Rule 12.15 (*Reproduction*)]
8. Sharing the MLS compilation or portion thereof with any third party vendor not authorized by the MLS [Rules 12.11 (*Use of MLS Information*), 12.12 (*Confidentiality of MLS Information*) and 12.15 (*Reproduction*)]
9. Unauthorized Reproduction of Confidential Fields and Information [Rule 12.15.2 (*Confidential Fields*)]
10. Unauthorized Compilation Downloading or Transmission of Data; Failure to Restrict Access to Authorized Party [Rule 12.15.4 (*Downloading onto Computers*)]
11. Misuse of MLS Data on Public Website; Violation of IDX Rules [Rule 12.16 (*IDX*)]
12. Misuse of MLS Data on Public Website; Violation of VOW Rules [Rule 12.19 (*VOW*)]
13. Unauthorized Sharing of Lockbox Key [Rule 13.2 (*Key Use and Service*)]
14. Failure to Account for Lockbox Key [Rule 13.4 (*Accountability*)]
15. Failure to Obtain Seller's Permission to Place a Lockbox [Rule 13.6 (*Written Authority*)]
16. Unauthorized Entrance into a Listed Property; Failure to Follow Showing Instructions [Rule 13.7 (*Listing Broker's Permission*)]
17. Failure to Report Lost or Stolen Lockbox Keys [Rule 13.8 (*Unaccountable Keys*)]
18. Wrongful Use or Removal of Lockbox Contents [Rule TBA (*Use of Lockbox Contents*)]