

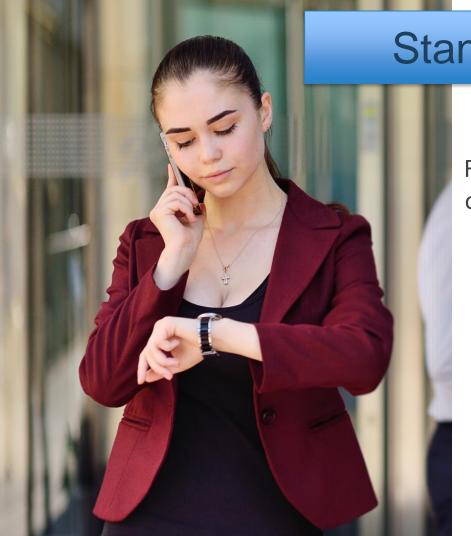


NAR Code of Ethics: Article 1

Code of Ethics and Standards of Practice
Of the National Association of REALTORS®

Effective January 1, 2018

When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly. (Amended 1/01)



Standard of Practice 1-6

REALTORS® shall submit offers and counter-offers objectively and as quickly as possible.

(Adopted 1/93, Amended 1/95)



When acting as listing brokers, REALTORS® shall continue to submit to the seller/landlord all offers and counter-offers until closing or execution of a lease unless the seller/landlord has waived this obligation in writing. REALTORS® shall not be obligated to continue to market the property after an offer has been accepted by the seller/landlord. REALTORS® shall recommend that sellers/landlords obtain the advice of legal counsel prior to acceptance of a subsequent offer except where the acceptance is contingent on the termination of the preexisting purchase contract or lease. (Amended 1/93)



### Model MLS Rules

California Model Multiple Listing Services Rules
Suggested Rules and Regulations
For an MLS Operated as a Committee Of a Local Association
of REALTORS® in California
Amended February, 2018
Prepared by the CALIFORNIA ASSOCIATION OF REALTORS®



### Model MLS Rules 9.5

9.5 Submission of Offers and Counter-Offers:

The listing broker shall submit to the seller/landlord all offers until closing unless precluded by law, governmental rule or expressly instructed by the seller/landlord otherwise. The cooperating broker acting for buyer/tenant, shall submit to buyer/tenant all offers and counter-offers until acceptance.



### Model MLS Rules 9.4

9.4 Presentation of Offers

The listing broker must make arrangements to present the offer as soon as possible, or give the cooperating broker a satisfactory reason for not doing so. In the event a listing broker will not be participating in the presentation of offers, the listing broker shall clearly indicate this fact in the listing information published by the service.

### MLS Model Rules 9.6

9.6 Right of Cooperating Broker in Presentation of Offer

The cooperating broker has the right to participate in the presentation of any offer to purchase he secures. The cooperating broker does not have the right to be present at any discussion or evaluation of that offer by the seller and the listing broker. However, if the seller gives written instructions to the listing broker requesting that the cooperating broker not be present when an offer the cooperating broker secured is presented, the cooperating broker shall convey the offer to the listing broker for presentation. In such event, the cooperating broker shall have the right to receive a copy of the seller's written instructions from the listing broker. Nothing in this section diminishes or restricts the listing broker's right to control the establishment of appointments for offer presentations.

### **Business and Professions Code 10176**

The commissioner may, upon his or her own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee within this state, and he or she may temporarily suspend or permanently revoke a real estate license at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following:

- (a) Making any substantial misrepresentation
- (b) Making any false promises of a character likely to influence, persuade, or induce.
- (c) A continued and flagrant course of misrepresentation or making of false promises through real estate agents or salespersons.

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(i) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

### **Business and Professions Code 10177**



The commissioner may suspend or revoke the license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an applicant, who has done any of the following:

- (g) Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license.
- (j) Engaged in any other conduct, whether of the same or a different character than specified in this section, that constitutes fraud or dishonest dealing.

# **Common Law Fiduciary Duty**

The law imposes on a real estate agent 'the same obligation of undivided service and loyalty that it imposes on a trustee in favor of his beneficiary.... This relationship not only imposes upon him the duty of acting in the highest good faith towards his principal but precludes the agent from obtaining any advantage over the principal in any transaction had by virtue of his agency.

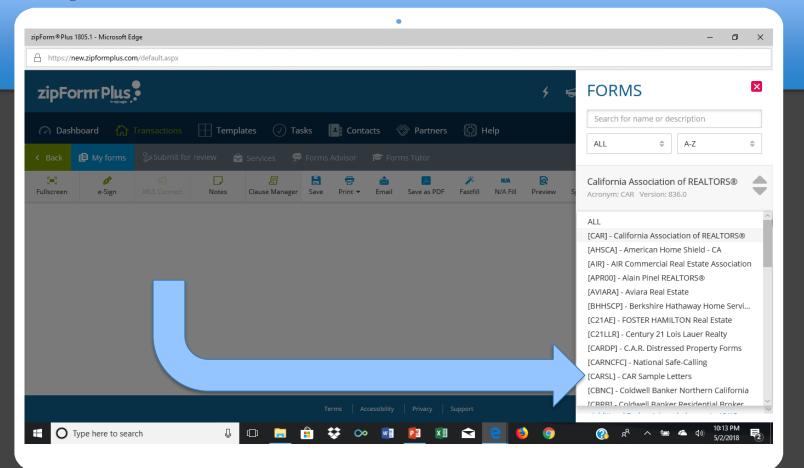
Alpha I. BATSON, v. Robert R. STREHLOW, 68 Cal.2d 662, Supreme Court of California, June 3, 1968.

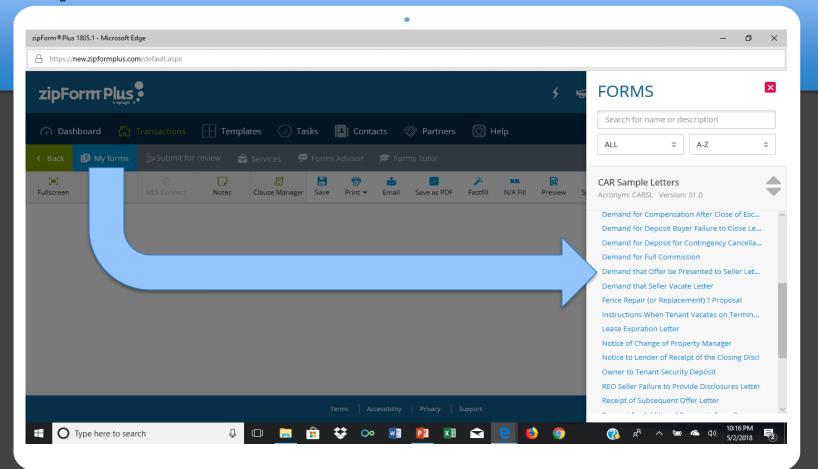
### **Model MLS Rules 9.1**

#### 9.1 Showings and Negotiations

<u>Appointments for showings and negotiations</u> with the seller for the purchase of listed property filed with the service <u>shall be conducted through the listing broker</u> except under the following circumstances:

- (a) ... or
- (b) after reasonable effort and no less than 1 day after the cooperating broker cannot contact the listing broker or his representative. However, the listing broker, at his option, may preclude such direct negotiations by the cooperating broker by giving notice to all Participants through the MLS. In the event all showings and negotiations will be conducted solely by the seller, the listing broker shall clearly set forth such fact in the listing information published by the service.





Broker:			
Address:			
Phone:	Fax:	Email:	
Date:	_		
To:			("Listing Agent")
To: of the property located at			(Street address)
(Unit #)	(City)	(State)	(Zip Code) ("Property")
Re: Demand that Offer be Prese	ented to Seller		
Dear		:	
1. I represent			("Buver"), who has
nade a written offer to purchase	the above-described Prop	erty. To date, neithe	("Buyer"), who has r I nor the Buyer have received a
esponse to the written olier.			
/// O/ - / - / \ A (D - /	s previously submitted offer	to purchase is attac	hed.
(If Checkea:) A copy of Buyer		veu en	(date) in the
	fer to purchase Property to	you on	(date) iii tile
2. I initially submitted Buyer's of following manner:		you on	(date) in the
2. I initially submitted Buyer's of following manner: (Check all of the follo	wing that apply:)		
2. I initially submitted Buyer's of ollowing manner:  (Check all of the follo	owing that apply:) y to		
2. I initially submitted Buyer's of following manner:  (Check all of the follo  Personal Delivery Email to	owing that apply:) y to		
2. I initially submitted Buyer's of following manner:  (Check all of the follo Personal Delivery Email to Fax to	owing that apply:) y to		
2. I initially submitted Buyer's of following manner:  (Check all of the follo Personal Delivery Email to Fax to Other	owing that apply:) y to		
2. I initially submitted Buyer's of following manner:  (Check all of the follo Personal Delivery Email to Fax to Other	owing that apply:) y to  DELIVERY: I have actual ki	nowledge that you a	re in receipt of Buyer's offer as I,

4. After submission of Buyer's offer, I made a concerted effort to ascertain Seller's response by contacting or attempting to contact you as documented below, but ultimately to no avail:

Date	Time	Manner of Communication			Description of Communication
		Phone	Email	Other	
		Phone	Email	Other	
		Phone	Email	Other	
		Phone	Email	Other	
		Phone	Email	Other	
		Phone	Email	Other	
		Phone	Email	Other	

5. Your failure to present Buyer's offer to Seller, which I have reasonable belief to be true as you have not communicated any response from Seller to me, may have serious consequences. You may be in violation of the law, DRE licensing rules, Multiple Listing Service (MLS) rules, and ethical rules. More specifically, a failure to present Buyer's offer to Seller may give rise to a lawsuit brought against you and your broker by the Seller or Buyer for legal claims, such as, but not limited to, breach of fiduciary duty and wrongful interference with prospective economic relations. Furthermore, any dishonest dealing, negligence, incompetence, or substantial misrepresentation is grounds for revocation or suspension of your real estate license with the California Department of Real Estate under California Business & Professions Code sections 10176 and 10177.

- 6. As a member of the MLS, you are specifically required to "make arrangements to present the offer as soon as possible, or give the cooperating broker a satisfactory reason for not doing so" under Rule 9.4 of the California Model MLS Rules as adopted by the MLS, and a failure to comply may be grounds for MLS disciplinary action, including payment of a fine and expulsion from MLS membership. If you are a REALTOR®, you are obligated to "submit offers and counter-offers objectively and as quickly as possible" under Standard of Practice 1-6 of the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®, and a violation of this rule can be grounds for disciplinary action, including payment of a fine and expulsion from association membership.
- 7. I hereby demand that you immediately present Buyer's offer to purchase to Seller of the above-referenced Property, and inform me of Seller's response.
- 8. If I, or my broker, do not receive Seller's response to Buyer's offer within one business day (or per local MLS Rule by \_\_\_\_\_\_), we may have no choice but to pursue any and all legal remedies against you without any further notice to you. We may also have no choice but to advise Buyer to do the same. Buyer's possible courses of action include, contacting and hiring a lawyer to pursue a legal action, filing a Complaint with the Department of Real Estate and filing a Complaint with the local MLS or Association of REALTORS® to which you belong.
- 9. (If Checked:) INTENT TO CONTACT SELLER DIRECTLY: You are hereby notified that if I cannot contact you, despite reasonable effort for at least one day, and you do not contact me within that time, I reserve the right to contact Seller directly to negotiate a purchase of Property for Buyer in accordance with Rule 9.1 of the California Model MLS Rules.
- 10. If you have any questions regarding this matter, please feel free to contact me or my broker. Thank you for your cooperation.

Sincerely,

# **Additional Resources**

# Quick Guide

Offer Presentation

Please return to the *Offer Presentation* webpage to view the Quick Guide.