



**REALTOR® ASSOCIATION**  
of Sarasota and Manatee

# **Frequently Asked Questions**

## **Arbitration**



## Questions and Answers

### Arbitration Requests

**Q. Do you have an Arbitration Request concerning a REALTOR®?**

- A.** The first thing that must be determined in processing an Arbitration Request with the REALTOR® Association of Sarasota and Manatee (RASM) is whether the REALTOR® is a member of RASM, or receives MLS through RASM. Not all realtors are REALTORS®. Only those who belong to an Association of REALTORS® can use the term REALTOR®.

**Q. Is your complaint Ethics or Arbitration?**

- A.** You may have to consider whether your complaint concerns an ethics matter or an arbitration of a monetary dispute. An ethics complaint charges that a REALTOR® has violated an Article(s) of the Code of Ethics. Arbitration is a means of resolving a monetary dispute arising out of a real estate transaction that the parties have been unable to solve themselves. An arbitration complaint or request is a simple notice by a member of a disagreement with another member, usually a commission dispute. Sometimes arbitration concerns a dispute between a member of the public and an Association member. Arbitration does not award damages.

If your situation concerns both ethics and arbitration, RASM will handle the requests separately. You may file both at the same time, however, arbitration is always held first. Only when arbitration is complete will the ethics complaint be considered.

**Q. Who may file an arbitration request?**

- A.**
- REALTORS®, primary or secondary members, who are principal brokers.
  - REALTORS®, primary or secondary members, who are not principals, provided his or her principal broker joins in the request
  - Clients or customers of the REALTOR® (see note below).
  - The request also must:
    1. Be in writing;
    2. Be signed by the Complainant;
    3. Indicate the amount in dispute;
    4. Be filed within 180 days of either closing of the transaction or after the facts could have become known, whichever is later.

Arbitration facilities are provided by RASM as a service to its members. Arbitration is not a disciplinary proceeding nor does it award damages. By becoming and remaining a member of RASM, REALTORS® bind themselves to arbitrate certain disputes.

In all arbitrable matters, mediation is offered prior to a formal hearing.

Be aware that not every situation may be arbitrated at RASM. There are conditions and limitations to be considered, which will be explained to you by RASM's Professional Standards Administrator as the process continues.

Note: Disputes involving clients or customers require that the client or customer sign an agreement to arbitrate and to be bound by the arbitration. Whether the complainant is a client or a customer and whether the dispute is one that can be processed by RASM's Grievance Committee is determined by RASM's Grievance Committee.

**Q. What can RASM do?**

**A.** RASM has limitations to its authority regarding its members. Below is a list of those limitations:

1. RASM cannot hold an administrative hearing for violations of the Florida real estate license law or any other alleged violation of the law. It has jurisdiction only over violations of membership duties. The Florida Real Estate Commission has sole control of the real estate agent's license to sell real estate. If you think a person has violated the law, you should be contacting another agency.
2. For the same reason, RASM **cannot** suspend or terminate the real estate **license** of one of its members.
3. RASM can arbitrate certain money disputes and **must** in some situations, but the member of the public must agree in writing to arbitrate the dispute and to be bound by the decision.
4. The award in arbitration cannot be greater than the amount in dispute, may not include "punitive" damages and may not include attorney's fees unless expressly provided for in the agreement giving rise to the dispute.

**Q. How do I file a Request to Arbitrate?**

**A.** Now that you know the ground rules, if you wish to file a Request to Arbitrate, here's how you do it:

A request for arbitration form will be supplied by RASM's Professional Standards Administrator. Steps to follow are:

1. Contact RASM's Professional Standards Administrator (941-952- 3402) for an arbitration request package.
2. Name the Designated REALTOR® and REALTOR®(s) involved (Respondents). The Designated REALTOR® with a firm must be named in most instances in addition to the REALTOR®(s) involved.
3. Indicate the amount in dispute.
4. Include an explanation of the situation. State why you feel you are entitled to an award of some kind. Remember, don't include allegations of unethical conduct in your argument. If you think there have been ethical violations, they can be handled separately with an ethics complaint.
5. Attach copies of any and all pertinent documents such as listing agreements, purchase and sales agreements, and closing statements, plus any notarized statements from witnesses.
6. RASM requires an arbitration deposit of \$250 and it must be included with your filing. Details are included in the arbitration packet you receive.
7. Sign the arbitration agreement (Form #A-1, Member or Form #A-2, Nonmember) indicating your commitment to abide by the decision of the Hearing Panel.
8. Send all of these items to RASM to the attention of the Professional Standards Administrator. Remember, it is not unusual for RASM to receive an ethics complaint and an arbitration request surrounding the same set of circumstances. If you think the REALTOR®(s) violated the Code of Ethics and you have a monetary dispute with him or her, you must complete both forms.

**Q. How does RASM process the complaint?**

- A.** RASM will offer mediation services to the complainant and if agreed, will then contact the respondent to ascertain their willingness to mediate the issue. If mediation is not desirable, the complaint is reviewed at the next regularly scheduled Grievance Committee meeting. If deemed arbitrable, mediation will once again be offered to both parties. NOTE: Both parties must agree to mediate. If mediation is not desirable, the Respondent will then be sent a copy of the Arbitration complaint and will have 15 days to respond.

**Q. What is the function of the Grievance Committee?**

**A.** The Grievance Committee's function is to make a preliminary investigation to determine whether the matter is subject to arbitration by RASM. Arbitration sometimes is a duty and sometimes a privilege. The Committee must decide whether your situation fits into the "Duty" or the "Privilege" category. It does this by determining:

1. If the parties' members are in good standing or otherwise entitled to invoke arbitration.
2. Whether the controversy described is an arbitrable matter.
3. Whether the arbitration is mandatory or voluntary to the people involved (this simply means whether arbitrating the dispute is compulsory or not).
4. Whether either the amount in dispute is too small or too large, or the matter is too legally complicated for RASM to consider.
5. Whether or not the request is filed within the time frame (180 days).

Such a review could result in the release of RASM members from the obligation to arbitrate, and thus free you to seek other recourse in order to resolve the dispute.

**Q.** What if the Grievance Committee determines that the matter is arbitrable?

**A.** The Grievance Committee will notify the parties that a mediation procedure is available as a preliminary, voluntary alternative to arbitration. If the Committee determines that the matter is not arbitrable, the Complainant and Respondent deposits will be refunded.

As in the case of ethics complaints, you may appeal a dismissal of an arbitration request to RASM's Board of Directors. A panel of five (5) Board of Directors members will be selected by the President of RASM to review the materials submitted to the Committee and can uphold or overturn the Grievance Committee's dismissal. Complainant and Respondent are not present for the appeal.

In either ethics or arbitration cases, you will be informed promptly of the Grievance Committee's decision. If the Grievance Committee forwards the complaint or request to a hearing, it is assigned to RASM's Professional Standards Committee.



## **FUNCTION OF PROFESSIONAL STANDARDS COMMITTEE**

The function of this Committee is to hold ethics and arbitration hearings.

The Professional Standards Committee Chair will appoint a Hearing Panel, consisting of five members of the Professional Standards Committee of RASM chosen on the basis of experience, temperament and objectivity.

A hearing will be scheduled and both the Complainant and Respondent will be notified of the hearing date, time and place. These hearings provide an opportunity for the Complainant and the Respondent to explain "his or her side of the story" by presenting testimony and witnesses, if any.

Once all the facts have been presented to the appointed Hearing Panel, the Panel will go into executive session to determine whether the Code of Ethics has been violated, or, in the case of arbitration, how the dispute should be settled. The Complainant and Respondent will be notified of the Panel's decision by certified mail.

You will be informed by RASM about each step of this process as it occurs. Complainant and Respondent also will be given instructions about the hearing procedures prior to the hearing. The entire process usually will take a minimum of 60 days, but may take longer. In arbitration cases, the prevailing party's deposit will be refunded.

If you have any questions relating to filing a Request for Arbitration, please call RASM's Professional Standards Administrator at 941-952-3402.

### **Send all correspondence to:**

**Dianne Clark  
Professional Standards Administrator  
The REALTOR® Association of Sarasota and Manatee  
2320 Cattlemen Road  
Sarasota, FL 34232**