



Dear Member:

This letter concerns your request for arbitration forms. You will find the Arbitration Complaint form and Outline of Procedure for Hearing Arbitration enclosed. Please complete the Arbitration form and attach eight (8) legible copies of your narrative statement with your supporting documents, together with your check for \$250 made payable to the Sacramento Association of REALTORS®. Please remember that arbitration is broker to broker; therefore, along with any agent, the broker of the respondent as well as the complainant must also be named on the complaint form.

You will also find a *Mandatory Mediation before Arbitration* form. The Sacramento Association of REALTORS® has adopted the policy of mandatory mediation prior to arbitration. The purpose of the discussion with the Mediator is to attempt resolution of the matter and to avoid a formal hearing by a Professional Standards Hearing Panel. If the matter is successfully resolved within three hours of mediation, each party will receive \$200 of the \$250 filing fee each party has paid.

If you are unable to resolve the dispute through mediation, a formal hearing will be scheduled with a Professional Standards Panel. This hearing is a binding arbitration and you agree to accept the findings of the Professional Standards Panel. In an arbitration hearing, the panel determines whether either of the parties will be refunded their filing fee, if requested.

Upon receipt of the completed forms, action will be taken to schedule the mediation conference. Please feel free to contact me at (916) 437-1226 or lharank@sacrealtor.org should you have additional questions.

Sincerely,

A handwritten signature in blue ink that reads "Lyndsey Harank".

Lyndsey Harank
Professional Standards Manager

Enclosures



**ARBITRATION COMPLAINT
SACRAMENTO ASSOCIATION OF REALTORS®**

1. A dispute arising from the real estate business has arisen between me (us) and the person(s) and/or entity(ies) named below (*Note: List all persons you wish to name as respondents. If you want to name a corporate entity as a respondent, you must indicate the corporation's legal name as a separately named respondent.*):

RESPONDENT(S):

(1) _____ Name of Respondent Brokerage (Type or Print)	(2) _____ Name of Responsible Broker (Type or Print)
_____	_____
Name of Firm	Name of Firm
_____	_____
	<u>BRE Number</u>
_____	_____
Street Address	Street Address
_____	_____
City, State, Zip	City, State, Zip
(3) _____	(4) _____
Name (Type or Print)	Name (Type or Print)
_____	_____
Name of Firm	Name of Firm
_____	_____
<u>BRE Number</u>	<u>BRE Number</u>
_____	_____
Street Address	Street Address
_____	_____
City, State, Zip	City, State, Zip

2. The respondent(s) owes me the sum of \$ _____. My claim is based upon the statement attached to this complaint, marked Exhibit "1", which is hereby incorporated by reference and made part of this complaint.
3. At the time the facts and circumstances giving rise to this dispute occurred, I am informed that each respondent was a:
REALTOR®/REALTOR-ASSOCIATE® Member of the Association; and/or
Participant/subscriber of the Association's MLS
4. This dispute is proper for arbitration at the Association as this is a real estate related dispute that arises out of our relationship as REALTORS®/REALTOR-ASSOCIATES® and/or arises from a listing filed with the Association's MLS.
5. I, by becoming and remaining a:
REALTOR®/REALTOR-ASSOCIATE® Member of the Association; and/or
Participant/subscriber of the Association's MLS

have previously agreed to resolve this dispute with the named respondents through binding arbitration using the Association's facilities and its rules and procedures for arbitration. Accordingly, I submit this dispute to arbitration and reaffirm my agreement to bind myself and any firm for which I am the designated broker of record to be bound by arbitration through the Association. Furthermore, I reaffirm my agreement to abide by the Association's rules and procedures for arbitration and to comply with the arbitration award. I understand and agree that this constitutes an arbitration agreement within the meaning of Part 3 Title 9 of the California Code of Civil Procedure. **In the event I or my firm does not comply with the arbitration award and it is necessary for any party to this arbitration to obtain judicial confirmation and enforcement of an arbitration award against me or my firm, I and my firm agree to pay the party obtaining such confirmation their costs and reasonable attorneys' fees incurred in obtaining such confirmation and enforcement. I also understand that if I do not comply with the arbitration award, I may be disciplined by the Association following a "show cause" hearing pursuant to the arbitration enforcement policy.**

6. I have filed this arbitration complaint, meeting all filing requirements, within one hundred and eighty (180) calendar days after the closing of the transaction, if any, or after the facts and circumstances constituting this arbitrable matter could have been known in the exercise of reasonable diligence, whichever is later.
7. I understand there will be a mechanical tape recording of the arbitration hearing. I understand that I may purchase a copy of the tape recording solely for the purpose of requesting a procedural review of the arbitration procedures and hearing by the Association's Board of Directors or an appointed review Panel thereof.
8. I understand that I may be represented by legal counsel at any time, including at the arbitration hearing and any procedural review. I further understand and agree that if I intend to have legal representation, I must give written notice of my legal representative's name, law firm name, address and phone number to all parties and the hearing and/or review Panel at least fifteen (15) calendar days before the scheduled date of the hearing. I understand and agree that failure to comply with this notice requirement may result in a continuance being granted and a continuance fee assessed against me.
9. I understand that the nature of these proceedings are confidential and that I have an obligation to maintain and protect the confidentiality of these proceedings and any resulting decision. I hereby agree to do so unless disclosure is authorized by the Association's rules and procedures or required by law.
10. Unless this dispute is between members of the same office, the responsible broker at the time the facts and circumstances giving rise to this dispute occurred must sign as a co-complainant and has signed this complaint.
11. I hereby affirm that the facts and circumstances and the parties in this matter are not related to any pending bankruptcy, civil litigation matter or criminal investigation, including a proceeding before a governmental regulatory agency. If I am unable to make this affirmation, I have attached a written statement describing the pending matter on a separate sheet of paper and have included it with this complaint.
12. I have enclosed my payment in the sum of \$ _____ for the arbitration filing fee with this complaint.
13. I will be represented by an attorney, whose name address and telephone number are:

14. Under the penalties of perjury, I declare that this arbitration complaint and the statements contained herein are true and correct to the best of my knowledge and belief.

Dated: _____

COMPLAINANT(S):

(1) _____
 Signature of Authorized Person

 Name of Complainant Brokerage (Type or Print)

 Firm

 Street Address

 City, State, Zip

 Phone email

(3) _____
 Signature

 Name (Type or Print)

 Firm

 Street Address

 City, State, Zip

 Phone email

(2) _____
 Signature

 Name of Responsible Broker (Type or Print)

 Firm

 Street Address

 City, State, Zip

 Phone email

(4) _____
 Signature

 Name (Type or Print)

 Firm

 Street Address

 City, State, Zip

 Phone email

SACRAMENTO ASSOCIATION OF REALTORS® ARBITRATION PROCEDURES

Arbitration request forms should be typed or legibly printed and submitted on a Sacramento Association of REALTORS® arbitration form along with a legible narrative, exhibits and attachments clearly marked. Eight (8) legible copies of all documents must accompany the arbitration request.

The complaint must be filed within one hundred and eighty days (180) from the date the transaction closes or one hundred and eighty days (180) from the time the facts giving rise to the dispute occurred.

An arbitration filing fee of \$250 must accompany the arbitration complaint and be made payable to the Sacramento Association of REALTORS®. All parties are provided information regarding mediation. The Sacramento Association of REALTORS® has adopted the policy of **mandatory** mediation prior to arbitration. Should mediation resolve the dispute within three hours, \$200 of the filing fee will be returned to each party. Should mediation not resolve the dispute, the parties will then arbitrate the dispute. Parties may request the return of the filing fee as well as other pertinent costs on the “Requested Arbitration Costs” form provided to all parties prior to arbitration. The hearing panel will then render a decision on the return of any costs in their deliberations.

As arbitration is between brokers of different firms, the complaining broker must sign all requests to arbitrate and the broker, as well as any salesperson involved, should be named as Respondents. Arbitration may not proceed with the salesperson as the sole complainant or respondent.

The response is due within fifteen (15) days after the date of “Notice to the Respondent” is mailed.

Complainant(s) and Respondent(s) to arbitration have the right to challenge the qualification of tribunal members for cause.

Complainant(s) and Respondent(s) will be notified in writing at least twenty-one (21) days in advance of the time, date and place of the hearing. The hearing will be video taped and a copy of the video will be available to the complainant(s) or respondent(s) only for the purposes of requesting a review at the cost of \$50 per DVD.

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Arbitration Procedure

All parties may be represented by legal counsel. The Association and the parties must receive notice of intent to be represented by legal counsel at least fifteen (15) days prior to the hearing. Failure to give adequate notice may result in the continuance of the hearing and a continuance fee imposed against the party failing to give adequate notice.

It is the responsibility of each party to arrange for their witnesses to be present at the time and place designated for the hearing. Parties are responsible to bring with them all evidence and written documents pertinent to the arbitration.

Hearings will be conducted in the English language. Interpreters are allowed to assist any party or witness at the hearing. Arrangements for having an interpreter present is the responsibility of the party requiring such service and the cost for the same shall be paid by that party.

Once a hearing date is set, it will not be rescheduled unless the complainant or the respondent (parties to the arbitration) requesting a new date files a written request for a continuance and can demonstrate good cause for granting the continuance. The Association will not consider continuance requests for rescheduling if they are not in writing and set forth the reason for the request.

The fee for the first request for continuance of a hearing will be \$75 and the fee for a second continuance to the same party will be \$200. Subsequent continuance fees will continue to double: e.g. \$400 for the third continuance, \$800 for the fourth continuance etc.

MANDATORY MEDIATION PRIOR TO ARBITRATION

The Sacramento Association of REALTORS® has adopted the policy of mandatory mediation prior to arbitration. Mediation is a dispute resolution process whereby a mediator (an impartial third party) works with you and the other parties to facilitate a mutually acceptable resolution of your dispute. Mediation is usually less adversarial and less formal and the parties are directly involved in the decision making process to resolve their dispute. SAR's mediators are trained by Pepperdine University instructors from the Straus Institute for Dispute Resolution.

If you are the complainant in the dispute, you still need to file an arbitration complaint with the Association and pay your filing deposit to preserve your right to arbitration. If the dispute is resolved in mediation, a written agreement will be signed by the parties and may be enforceable by law in the courts. In addition, both the Complainant and the Respondent will receive a refund of \$200 of their deposits. If you are unable to reach a mutually acceptable resolution of the dispute through mediation, an arbitration hearing will then be scheduled.

Please indicate below your first, second and third preference for a mediation conference:

(insert 1st date) _____

(insert second date) _____

(insert third date) _____

Your Name (Type or Print) Signature

Telephone E-mail Date

Address City State Zip

Please return to:

SACRAMENTO ASSOCIATION OF REALTORS® Attn: Lyndsey Harank

2003 Howe Avenue

Sacramento, CA 95825

Phone (916) 437-1226

E-mail: lharank@sacrealtor.org

SACRAMENTO ASSOCIATION OF REALTORS®

DISPUTE RESOLUTION SERVICE

IF YOU ARE CONTEMPLATING MEDIATION

If you are contemplating mediation as a means of resolving a dispute or conflict, the following information regarding the mediation process and the Sacramento Association of REALTORS® Dispute Resolution Service (SAR/DRS) should be helpful in making a decision.

SAR DISPUTE RESOLUTION SERVICE

This service has been formed essentially for the use of our members and their clients to provide a forum for efficient, low cost and fast resolution of disputes. Our mediators are trained in mediation and communication techniques and have a wide variety of professional backgrounds and interests as relating to real estate matters: **THEY SHARE A COMMITMENT TO SERVING THE SACRAMENTO ASSOCIATION OF REALTORS® THROUGH THE MEDIATION PROCESS.**

WHAT IS MEDIATION?

Mediation is a means of resolving disputes through peaceful communication. It is an alternative to adversarial, expensive and time consuming litigation through the courts. It is non-adversarial, confidential, informal and inexpensive, and is now widely recognized as the forum of choice for the resolution of conflicts and misunderstandings.

THE ROLE OF MEDIATORS

Mediators are professionally trained, impartial third parties who provide their services with the dedicated belief in the power of mediation and collaborative negotiation as effective conflict mediation tools.

Mediators do not serve as judge or jury, do not seek to determine right or place blame. *Mediators do not impose a decision* on either party like a judge or an arbitrator: Their only interest is in helping you to resolve differences and reach a *mutually agreeable solution*.

Mediators do not give legal or professional advice. Rather they facilitate communications by helping disputants describe their feelings, clarify issues, determine their true interests, identify underlying concerns and where possible, reach agreement.

THE MEDIATION PROCESS

The mediation process begins by welcoming and introducing all participants followed by an opening statement from the mediator. Initially, each disputant will be given an uninterrupted opportunity to define the conflict/problem as they see it and express their feelings about it to the mediator. Each person will be given time to describe the conflict from their perspective while the mediator and the other party listens. The mediator may ask clarifying questions from time to time.

The process demands a high degree of mutual respect and honesty - and no foul or threatening language, gestures or actions will be permitted. Flexibility and respectful communication is key to the mediation process and parties must honestly express their needs and truly listen to what others have to say. If parties focus on blaming or revenge it merely promotes similar responses, lessening the chances of resolution.

Once the mediator has a clear understanding of the problem, the mediator will ask questions designed to ensure that each party fully comprehends the conflict from the perspective of the other disputant, and the issues and interests involved. In this way, a great deal of important information invariably comes to light which may not have been known or understood hitherto by the other party: *OFTEN THE FIRST MAJOR STEP TOWARD RESOLVING THE CONFLICT!*

At this point in the process, the mediator will help the parties understand that to solve a conflict each must be willing to acknowledge any new understanding they have about the dispute and the other person's situation.

From time to time, the mediator may ask for a private meeting or "caucus" with one disputant at a time in order to get a clear idea of their refined interests, goals and proposals as to the final outcome of the mediation.

In the final stages of the mediation, potential resolutions are explored.

AGREEMENTS

A settlement or resolution reached between the parties as a result of the mediation may be oral or written at the discretion of the disputants.

If the disputants wish, a written agreement may be considered binding in the same way as a *written contract* is binding in the courts. This requires that the agreement must be in writing and signed by the parties. It must also contain a clear statement that: 1) each disputant wants the agreement to be binding, 2) each disputant understands the agreement is admissible in court should enforcement be necessary. Binding agreements in civil matters do not imply other means of enforcement such as intervention by police or sheriffs officers. *SAR/DRS DOES NOT MONITOR OR ENFORCE AGREEMENTS RESULTING FROM MEDIATION.*

At the request of the parties, the mediator will assist in writing the agreement as a scrivener, using the parties own words and their mutually agreed upon terms. *The mediator has no intent or role in influencing the content of any agreement arrived at by the parties. The mediator's only interest is to facilitate communication that is satisfactory to each side of the dispute.*

CONFIDENTIALITY

The California Evidence Code reflects the importance placed by the law on the need for confidentiality in mediation. For mediation to be successful, the parties must feel free to discuss the issues openly with the assurance that their presentations will be held confidential by law. Accordingly, the parties (and the mediator), will be required to sign a confidentiality agreement before the mediation, *before the mediation session can proceed*, to signify intent to comply with the rules of confidentiality.

It is important to note that if a written agreement is reached, both parties should recognize that the resolution itself is not confidential and may be enforceable by law in the courts.