



New York State Association of REALTORS®, Inc.

New York State Association of REALTORS®, Inc.

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January 15, 2025

Local Board/Association Executive Officers, Presidents, Secretaries and Legal Counsels

Re: Certification of Compliance, 2024 NAR Code of Ethics and Arbitration Manual

Dear Sir/Madam:

In accordance with the annual review of NAR's Code of Ethics and Arbitration Manual, NYSAR is of the opinion that the procedures are consistent with New York State law. As has been the case in the past, NAR is aware that Standards of Practice 3-4 and 16-16 are not enforceable in New York due to regulatory issues. The New York State Department of State ruled on September 23, 1992 that mandatory disclosure of differential commissions (Standard of Practice 3-4) is the basis for disciplinary action against complying licensees. Furthermore, the New York State Department of State advised on April 21, 1989 that the enforcement of Standard of Practice 16-16 (then known as Standard of Practice 21-16) is a basis for disciplinary action against complying licensees. Previous efforts to have the Department of State reconsider these matters have been unsuccessful.

Furthermore, the section of Standard of Practice 12-5 that permits the disclosure of the firm's name "via a link to a display with all required disclosures" is also not generally applicable in New York. One exception to this would be the use of a social media platform to advertise when such platform limits how many characters may be sent in each advertisement thereby limiting how much information the licensee can include in the post. The licensee could comply with the advertising regulation by "threading" the advertisements and necessary disclosures to make clear that multiple successive messages that exceed the character limitations actually act as one advertisement. As an alternative, the licensee could provide a clear, conspicuous and unambiguous link within the same advertisement to a separate page where all the required disclosures are made. For a link to be acceptable, it must clearly and conspicuously disclose the link's purpose and cannot simply state "click here for more information".

If you should have any questions, please do not hesitate in contacting me.

Regards,

Anthony Gatto
General Counsel & Director of Legal Services

cc: Lesley Muchow, General Counsel
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