

DISCIPLINARY AND APPEALS PROCEDURES

1.0 INTRODUCTION; CONFIDENTIALITY

1.0.1 These Disciplinary and Appeals Procedures are adopted by the Board of Directors of the California Association of Community Managers, Inc. as authorized by Article IV, section 4.3(I) of the Amended and Restated Bylaws.

1.0.2 All proceedings under these Disciplinary and Appeals Procedures shall be absolutely confidential except to the extent that the discipline imposed requires publication.

1.0.3 Failure of confidentiality shall not invalidate any decision.

1.1 DEFINITIONS

1.1.1 "Appellant" shall be defined as the Party filing a Notice of Appeal.

1.1.2 "Appellee" shall be defined as the Party against whom a Notice of Appeal is filed.

1.1.3 "Bylaws" shall be defined as the Amended and Restated Bylaws of The California Association of Community Managers, Inc.

1.1.4 "CACM" shall be defined as The California Association of Community Managers, Inc.

1.1.5 "Days" shall be defined as calendar days.

1.1.6 "Code of Professional Ethics and Standards of Practice" and/or the "Management Firm Code of Professional Ethics" shall be defined as the Code of Professional Ethics and Standards of Practice of the California Association of Community Managers, Inc.

1.1.7 "Complainant(s)" shall be defined as the party(ies) who filed an Original Complaint with the PSC.

1.1.8 "EAC" shall be defined as the Ethics Appeals Committee.

1.1.9 "EAC Chair" shall be defined as the Chair of the EAC.

- 1.1.10 “Formal Complaint” shall be defined as the complaint approved by the PSC after the Investigation has been completed and, if necessary, the Original Complaint has been amended.
- 1.1.11 "Hearing Panel" shall be defined as the subcommittee of the PSC appointed to conduct a hearing and issue a recommendation.
- 1.1.12 “Hearing Panel Chair” shall be defined as the Chair of the Hearing Panel.
- 1.1.13 “Investigation” shall be defined as an inquiry by the PSC or such members as it shall designate into the facts proving or disproving the allegations of unethical conduct in an Original Complaint.
- 1.1.14 “Majority Vote” shall be defined as more than one-half of the votes cast.
- 1.1.15 “Member” shall be defined as a member of CACM in good standing.
- 1.1.16 “Notice of Appeal” shall be defined as the notice of appeal received by the President on Form 2A, complete and with all exhibits.
- 1.1.17 “Notify” shall be defined as the forwarding of a document, by registered or certified mail or traceable overnight delivery, to a Party or Parties.
- 1.1.18 “Original Complaint” shall be defined as the initial complaint received by the President on Form 1A, complete and with all exhibits.
- 1.1.19 “Party” or “Parties” shall be defined as the Complainant(s) and/or the Respondent(s) in an ethics proceeding before the PSC. On appeal, “Party” or “Parties” shall be defined as the Appellant, the Appellee, and/or the PSC.
- 1.1.20 “President” shall be defined as the President of CACM.
- 1.1.21 “PSC” shall be defined as the Professional Standards Committee.
- 1.1.22 “PSC Chair” shall be defined as the Chair of the PSC.
- 1.1.23 “PSC Investigator(s)” shall be defined as the PSC member(s) selected to perform the Investigation in a particular case.

- 1.1.24 “Respondent(s)” shall be defined as the Member(s) against whom an Original Complaint is filed and who is alleged to have violated the Code of Professional Ethics and Standards of Practice.
- 1.1.25 “Response” shall be defined as the Respondent’s written response to the Original Complaint or Formal Complaint in an ethics proceeding before the PSC. On appeal, “Response” shall be defined as the Appellee’s written response to the Notice of Appeal.
- 1.1.26 “Unethical Conduct” shall be defined as conduct that violates the Code of Professional Ethics and Standards of Practice of The California Association of Community Managers, Inc.
- 1.2 ORIGINAL COMPLAINT
- 1.2.1 An ethics proceeding is initiated by filing an Original Complaint on Form 1A with the President. Form 1A is attached hereto as Exhibit A.
- 1.2.2 A complaint not submitted on Form 1A shall be rejected.
- 1.2.3 All information requested on Form 1A must be provided, or it may be rejected.
- 1.2.4 To be filed, the Original Complaint shall be sent by U.S. Mail or hand-delivered to CACM at its main office to the attention of the President.
- 1.2.5 An Original Complaint shall be deemed filed on the date that it is received by CACM at its main office.
- 1.2.6 Form 1A shall require a detailed statement of all facts which support the allegation that Unethical Conduct may have occurred and citation to all relevant portions of the Code of Professional Ethics and Standards of Practice. Copies of all relevant documents shall be attached. Form 1A shall be signed by the Complainant.
- 1.2.7 An Original Complaint may be filed by any Member or by the Board of Directors of a CID owners association representing a Majority Vote.

- 1.2.8 An Original Complaint submitted by a CID owners association shall be accompanied by a written resolution of its Board of Directors, approved at a regular board meeting and signed by a majority of the Board, authorizing submission of the Original Complaint.
- 1.2.9 PSC members who are also Members may file an Original Complaint.
- 1.2.10 Upon receipt of the Original Complaint, the President shall assign it a case number, which shall consist of the calendar year followed by a number indicating the number of complaints received so far that year (e.g., 2006-1), and forward it to the PSC Chair.
- 1.2.11 By filing an Original Complaint, the complainant agrees to cooperate in the Investigation and to participate in the Hearing Panel hearing. Should complainant fail to do so, the Hearing Panel hearing shall still proceed unless, in its sole discretion the Hearing Panel decides not to proceed with the hearing.
- 1.3 LIMITATION PERIOD
- 1.3.1 An Original Complaint alleging that Unethical Conduct may have occurred shall be filed within one year after the Complainant discovers, or through the use of reasonable diligence should have discovered, the facts constituting the alleged Unethical Conduct, or two years from the date of the acts or omissions constituting the alleged Unethical Conduct, whichever occurs first.
- 1.4 INITIAL NOTICE TO RESPONDENT; RESPONDENT'S RESPONSE
- 1.4.1 Upon receipt of the Original Complaint, the PSC shall Notify the Respondent that an Original Complaint has been filed. At the same time, the PSC shall send a copy of the Original Complaint to the Respondent and ask Respondent to file a Response.
- 1.4.2 The Respondent shall have twenty-one (21) Days from receipt of the notification that an Original Complaint has been filed to file a Response. The PSC Chair may, for good cause, exercise discretion and accept a late filing from the Respondent.
- 1.4.3 The Response shall contain a statement of all facts which support Respondent's defenses to the Original Complaint and citation to all relevant portions of the Code of Professional Ethics and Standards of Practice. Copies of all relevant

documents shall be attached. The Response shall be signed by Respondents

1.4.4 If a Response is not received from the Respondent, it may be assumed that the Respondent does not intend to contest the allegations and/or charges.

1.5 PRELIMINARY DETERMINATION BY PSC

1.5.1 Upon receipt of an Original Complaint, the PSC Chair shall forward copies to all PSC members and shall place the matter on the agenda for the next regularly-scheduled PSC meeting.

1.5.2 All PSC meetings under the Disciplinary and Appeals Rules may be conducted either in person or by teleconference, at the discretion of the PSC Chair.

1.5.3 The PSC shall review the Original Complaint and, by Majority Vote, shall determine one or more of the following: that the matter (a) contains insufficient information on which to base a determination; (b) does not allege Unethical Conduct or is not otherwise under the jurisdiction or authorization of the PSC; (c) is unworthy of further consideration; (d) contains sufficient information to allege that Unethical Conduct may have occurred.

1.5.4 If the preliminary determination by the PSC is that the Original Complaint does not allege Unethical Conduct, lies outside the jurisdiction or authority of the PSC, or is unworthy of further consideration, the matter may be dismissed by the PSC by Majority Vote.

1.5.5 The PSC shall maintain absolute confidentiality in all aspects of its work, except to the extent that the discipline imposed requires publication.

1.6 INVESTIGATION

1.6.1 If the PSC decides that the matter should proceed, then the PSC shall conduct an Investigation.

1.6.2 The PSC Chair may select one or more PSC members to conduct the Investigation. The PSC Investigator(s) assigned to conduct the Investigation shall continue to fully participate in the hearing process. The PSC Chair shall attempt to select PSC Investigator(s) from outside the “market area” of the Complainant and Respondent.

- 1.6.3 Investigation shall be conducted into the specific facts or circumstances to clarify, expand, corroborate or refute the information and allegations before the PSC. The Investigation shall be conducted in a fair and objective manner and shall be conducted not to favor either side.
- 1.6.4 The Investigation shall follow the following procedures:
- 1.6.4.1 The PSC Investigator(s) shall review the Original Complaint and the Response, if any, to determine which issues should be addressed in the Investigation. In addition, the PSC may ask the PSC Investigator(s) to address certain issues in the Investigation.
- 1.6.4.2 The PSC Investigator(s) and/or the PSC Chair may contact either Party or both Parties. Without limitation, this contact may be in person or by telephone, U.S. Mail, email or facsimile.
- 1.6.4.3 The PSC Investigator(s) and/or the PSC Chair may request additional documents from the Parties.
- 1.6.4.4 The PSC Investigator(s) and/or the PSC Chair may address specific points in discussions with the Parties and in requests for additional documents.
- 1.6.5 If a Party is asked for additional documentation, the request must be in writing or confirmed in writing. The Party shall have twenty-one (21) Days to respond. If no response is received within said twenty-one (21) Days, and if no extension is requested by the Party, then the PSC may terminate the Investigation by Majority Vote.
- 1.6.6 Other than the PSC Investigator(s) and/or the PSC Chair, no PSC member shall contact, or communicate with, the Parties or any witnesses, unless authorized to do so by a Majority Vote of the PSC.
- 1.6.7 The PSC Investigator(s) shall report their findings to the PSC, which may include a recommendation on whether to hold a hearing. The report shall describe the Investigation and its results in detail, including the identity of every person contacted, every document reviewed, and the information obtained. The report may be verbal or written.
- 1.7 INITIAL DETERMINATION BY PSC

- 1.7.1 After the Investigation has been completed, the PSC shall determine by Majority Vote that either: (a) the matter does not involve Unethical Conduct and the Original Complaint should be dismissed, or (b) Unethical Conduct may have occurred and the matter should proceed to a hearing.
- 1.7.2 After the Investigation has been completed, based upon the Investigation and the Response, the PSC may decide, by Majority Vote, to amend the Original Complaint. The amended complaint shall be called the Formal Complaint, and the Parties shall be provided with a copy of it.
- 1.7.3 Respondent shall have twenty-one (21) Days from receipt of the Formal Complaint within which to file an amended Response, if Respondent chooses to do so. Should Respondent choose not to file an amended Response, no adverse inference shall be made.
- 1.7.4 In determining whether Unethical Conduct may have occurred, the PSC shall rely on a thorough understanding of the Code of Professional Ethics and Standards of Practice, the Bylaws, and other applicable rules and regulations, as well as common sense.
- 1.7.5 Only those alleged violations supported by sufficient evidence and documentation shall be the subject of a hearing.
- 1.8 APPOINTMENT OF HEARING PANEL
- 1.8.1 After the PSC has determined that Unethical Conduct may have occurred, the PSC, by Majority Vote, shall appoint a Hearing Panel to conduct the hearing.
- 1.8.2 The Hearing Panel shall be appointed from members of the PSC.
- 1.8.3 PSC Investigator(s) are eligible to be appointed to the Hearing Panel.
- 1.8.4 The PSC, by Majority Vote, shall appoint a member of the Hearing Panel to serve as the Hearing Panel Chair.
- 1.8.5 All Hearing Panels shall have three (3) members.
- 1.9 DUTIES OF THE HEARING PANEL

- 1.9.1 The Hearing Panel shall conduct hearings to make a recommendation whether Unethical Conduct has occurred and, if so, to recommend appropriate disciplinary action.
- 1.9.2 The Hearing Panel shall maintain absolute confidentiality in all aspects of its work, except to the extent that the discipline imposed requires publication.
- 1.10 NOTICE OF HEARING PANEL HEARING; PRE-HEARING PROCEDURES
- 1.10.1 At least twenty-one (21) Days before the hearing, the Hearing Panel Chair shall Notify the Parties of the date, time and place of the hearing and the names of the Hearing Panel members. Said notice shall also ask the Parties if they intend to be present at the hearing.
- 1.10.2 After being notified of the names of the Hearing Panel members, the Parties may challenge the Hearing Panel members for cause. This shall be done by written request filed at least ten (10) Days before the hearing, which states the grounds alleged as the basis for disqualification with supporting facts. The Hearing Panel shall determine the validity of such challenges and, by Majority Vote, may disqualify a member for cause.
- 1.10.3 At least ten (10) Days before the hearing, each Party shall notify the Hearing Panel Chair whether he and/or his representative will be attending the hearing and shall give the Hearing Panel Chair a list of all of his witnesses, a list of all exhibits except those to be utilized solely for impeachment, and copies of all exhibits. **Witnesses and exhibits not fully disclosed by this deadline may not be utilized at the hearing.** For good cause shown, the Hearing Panel may vote to permit the witnesses to be heard or the exhibits to be presented.
- 1.10.4 Before the hearing, copies of the Formal Complaint and Response, with exhibits, if any, and the Parties' witness lists, exhibit lists and exhibits shall be distributed to all members of the Hearing Panel and the Parties.
- 1.10.5 Either Party may request a postponement of the hearing date by submitting a written request to the PSC Chair, who may grant postponements for good cause.
- 1.11 HEARING PROCEDURES

- 1.11.1 The Hearing Panel Chair shall preside at the hearing, shall assure that these Disciplinary and Appeals Procedures are followed, and shall prescribe any necessary additional procedures for the hearing not inconsistent with the provisions herein.
- 1.11.2 The hearing shall be closed to all except the Hearing Panel, the Parties, their witnesses, their legal counsel, the court reporter, if any, and CACM staff and legal counsel, except that witnesses shall be present only when testifying.
- 1.11.3 At each Hearing Panel hearing, all Hearing Panel members must be present, either in person or by telephone.
- 1.11.4 The Hearing Panel hearing may be conducted either in person or by teleconference, at the discretion of the Hearing Panel Chair.
- 1.11.5 The Parties shall have the right to appear, to be represented by legal counsel, and to present witnesses and evidence.
- 1.11.6 The Parties, their legal counsel and any member of the Hearing Panel may cross-examine any witness.
- 1.11.7 Witnesses giving oral testimony shall be sworn in by the Hearing Panel Chair using the following oath:
“Do you solemnly swear [or affirm] that the testimony that you are about to give in this matter shall be the truth, the whole truth, and nothing but the truth?”
- 1.11.8 Any information may be considered which is relevant or potentially relevant. The Hearing Panel Chair may exclude any questions which are deemed irrelevant, improper, argumentative or hearsay.
- 1.11.9 If the Hearing Panel desires assistance from CACM's legal counsel, legal counsel may participate in the proceedings. CACM shall bear the cost of that legal counsel.
- 1.11.10 The Hearing Panel Chair may recess the hearing from time to time.
- 1.11.11 The Hearing Panel Chair may exclude any person from the hearing who fails to conduct himself/herself in a manner conducive to a fair and expeditious hearing.

- 1.11.12 The Hearing Panel may hire a court reporter to transcribe the hearing, and CACM shall bear the cost of that reporter. Either Party also may hire a court reporter to transcribe the hearing, and the cost of that service shall be paid for by the Party requesting it.
- 1.11.13 When any Member receives written notification from the Hearing Panel to appear, to participate or to testify at such hearing, it shall be the Member's duty to appear and to testify.
- 1.11.14 The Parties shall be responsible for their expenses to attend the hearing; however, CACM may provide assistance where it deems such assistance would be in the best interests of CACM.
- 1.11.15 The Complainant shall have the burden of proving that the alleged violation(s) occurred.
- 1.11.16 The failure of any Party, either personally, by designated representative or by legal counsel, to be present at the hearing, or to meet the requirements of the Bylaws, the Code of Professional Ethics and Standards of Practice, these Disciplinary and Appeals Procedures, or any rules or regulations, shall be deemed a waiver of any rights granted to that Party by those documents.
- 1.12 HEARING OUTLINE. To ensure due process, the Hearing Panel shall be guided by the hearing outline in this section.
- 1.12.1 The Hearing Panel Chair will make an opening statement, citing the Hearing Panel's authority to hear the case, explaining the reason for the hearing, and introducing all persons present.
- 1.12.2 The Formal Complaint and the Response, if any, shall be read into the record; provided that, with the approval of the Parties, this reading may be waived, and those documents made a part of the record.
- 1.12.3 At the commencement of each hearing, the Hearing Panel Chair shall ask each attending Hearing Panel member if there is any reason why he or she could not hear the case objectively. If any Hearing Panel member indicates that he or she may not hear the case objectively, then that Hearing Panel member shall not be a Hearing Panel member, shall be excused from that hearing, and a replacement member shall be appointed.

- 1.12.4 The Complainant shall be called upon to state his or her case and to present any witnesses that he or she may desire.
- 1.12.5 Hearing Panel members and CACM legal counsel shall have the opportunity to question the Complainant and his or her witnesses.
- 1.12.6 The Respondent may cross-examine the Complainant and his or her witnesses.
- 1.12.7 The Respondent shall be called upon to state his or her case and present any witnesses that he or she may desire.
- 1.12.8 Hearing Panel members and CACM legal counsel shall have the opportunity to question the Respondent and his or her witnesses.
- 1.12.9 The Complainant may cross-examine the Respondent and his or her witnesses.
- 1.12.10 Both Parties shall be asked if they wish to make any final statements or rebuttals which they consider necessary to complete the record. The Complainant shall make the first final statement, and the Respondent shall make the last final statement.
- 1.12.11 Hearing Panel members and CACM legal counsel shall have a final opportunity to question the Parties, and to call additional witnesses or request additional information they deem necessary or appropriate to conduct a full and fair hearing.
- 1.12.12 The Hearing Panel Chair shall recess the hearing and excuse the Parties.
- 1.12.13 The Hearing Panel Chair shall immediately open an executive session of the Hearing Panel to discuss the case and to decide on a recommendation whether the Respondent has engaged in Unethical Conduct and, if appropriate, the discipline to be imposed.
- 1.12.14 Only Hearing Panel members, CACM legal counsel and designated CACM staff may be present at the executive session.
- 1.12.15 The Hearing Panel Chair shall permit each member of the Hearing Panel to discuss his or her views on the case.

- 1.12.16 By Majority Vote, the Hearing Panel shall decide whether the Respondent has engaged in Unethical Conduct and, if so, the discipline to be imposed. The Hearing Panel's decision is only a recommendation, which shall be conveyed to the PSC for further consideration.
- 1.12.17 During the executive session, the Hearing Panel may decide to amend the Original Complaint to add additional allegations of Unethical Conduct. If this occurs, then the Hearing Panel shall advise the Parties of these additional allegations and, without reaching a decision, continue the hearing for a time sufficient to allow the Parties time to prepare to address the new allegations, but not less than twenty-one days.
- 1.13 REPORT OF HEARING PANEL RECOMMENDATION
- 1.13.1 When the Hearing Panel has reached a recommendation, the Hearing Panel shall prepare a written report of its recommendation and convey it to the PSC Chair.
- 1.13.2 The Hearing Panel's recommendation shall be confidential and shall be reported only to the PSC. Failure of confidentiality shall not invalidate the recommendation.
- 1.13.3 The Hearing Panel's recommendation shall be based upon the evidence, documentation and testimony introduced at the hearing. The Hearing Panel's recommendation shall be based upon the charges in the Formal Complaint. The charges in the Formal Complaint may be amended prior to, or at, the hearing, as the Hearing Panel deems appropriate.
- 1.13.4 In determining appropriate discipline, the Hearing Panel may, in its discretion, consider all past records in the Respondent's CACM files, including any previous determination of violation and discipline imposed.
- 1.13.5 The Hearing Panel shall render its report in writing no later than sixty (60) days after the conclusion of the hearing. The decision shall contain findings of fact, conclusions and, if appropriate, a recommendation of the disciplinary action to be imposed.
- 1.14 DECISION BY PSC
- 1.14.1 Upon receipt of the Hearing Panel's report, the PSC Chair shall place the matter on the agenda for the next regularly-scheduled PSC meeting. A copy of the

Hearing Panel's report will be distributed to all members of the PSC.

- 1.14.2 By Majority Vote, the PSC shall decide whether to adopt the Hearing Panel's recommendation, with or without modification, to reject it, or to remand the matter to the Hearing Panel for further proceedings.
- 1.14.3 By Majority Vote, the PSC shall decide whether the Respondent has engaged in Unethical Conduct and, if so, the discipline to be imposed.
- 1.14.4 The PSC shall render its decision in writing no later than forty-five (45) Days after it receives the Hearing Panel's report.
- 1.14.5 The PSC shall send copies of its decision to the President and to the Parties.
- 1.14.6 The PSC's decision shall be confidential and reported only to the President and the Parties, except to the extent that the discipline imposed requires publication. Failure of confidentiality shall not invalidate the decision.
- 1.15 NATURE OF DISCIPLINARY ACTION. Disciplinary action may consist of one or more of the following sanctions, as the PSC deems appropriate.
 - 1.15.1 Letter of censure, with or without publication, of the determination and/or the Respondent's name.
 - 1.15.2 Suspension of membership or status, with publication of the determination and the Respondent's name.
 - 1.15.2.1 The length of suspension shall not exceed five years.
 - 1.15.2.2 Suspension includes deprivation of all rights, benefits and incidents of membership or status during the period of suspension, except that the individual must keep current with dues and obligations.
 - 1.15.2.3 Suspension shall be imposed as a period of time, and not until a date certain.
 - 1.15.3 Termination from membership or status, with publication of the determination and the Respondent's name. A decision to terminate membership for any reason other than nonpayment of dues or fees charged by CACM in accordance with Article VII, Section 7.1 of the CACM Bylaws hereof shall be published in CACM's Vision Magazine and on CACM's website, which is accessible to the

public, and that membership may never be reinstated.

- 1.15.4 At the discretion of the PSC, any discipline may be conditional or unconditional.
- 1.15.4.1 If discipline is conditional, then the Respondent can avoid discipline by performing one or more actions specified by the PSC. The specified action shall be reasonable and relevant to the violation and may include, without limitation, taking of certain CACM courses and passing the test.
- 1.15.4.2 If the PSC decides to impose conditional discipline then, at the time that the PSC's decision is issued, the PSC must state the action(s) to be taken if the condition(s) are met or not met.
- 1.15.5 Any discipline imposed by the PSC may be suspended by it, and the Respondent may be placed on probation, or may be made subject to a lesser disciplinary action, or to no disciplinary action whatsoever, at the discretion of the PSC.
- 1.15.6 Even when a finding of Unethical Conduct is made, the PSC is not obligated to impose disciplinary action.
- 1.15.7 If a Respondent resigns his or her membership or other status at any time after an Original Complaint has been filed but before the PSC issues its decision, then the PSC shall conclude the matter as "Resignation with Charges Pending," and the PSC may, at its discretion, publish this outcome.
- 1.16 **FINALITY OF DECISION.** If no Notice of Appeal or petition for reconsideration is filed by either the Complainant or Respondent after the written decision, the decision shall become final, binding, and effective on the last day on which a timely appeal could have been filed.
- 1.17 **PETITION FOR RECONSIDERATION**
- 1.17.1 **SCOPE OF REVIEW**
- 1.17.1.1 Petitions for reconsideration are heard by the Hearing Panel.

- 1.17.1.2 The Hearing Panel may take any further action it deems appropriate, up to and including a de novo review and/or Investigation of the matter.
- 1.17.2 BASIS FOR RECONSIDERATION. A Petition for Reconsideration shall be based only on the following reasons:
 - 1.17.2.1 Material facts have come to light subsequent to the initial hearing and the Petitioner can articulate legitimate reason(s) why the Petitioner was unable to provide those facts at the time of the hearing, or
 - 1.17.2.2 A material amendment was made to the Code of Professional Ethics and Standards of Practice subsequent to the initial hearing.
 - 1.17.2.3 “Material” as used in this section means likely to justify a change in the PSC’s decision.
- 1.17.3 TIME
 - 1.17.3.1 The deadline for filing a petition for reconsideration under 1.17.2.1 is twenty-one (21) Days from the date of mailing of the notice of decision by the PSC.
 - 1.17.3.2 The deadline for filing a Petition for Reconsideration under 1.17.2.2 is twenty-one (21) Days from the date of first publication of the relevant amendment to the Code of Professional Ethics and Standards of Practice.
- 1.18 ALTERNATIVE DISPUTE RESOLUTION. Pursuant to Article XII, section 12 of the Bylaws, at any time, the PSC may refer the matter to alternative dispute resolution.
- 2.0 APPEALS
 - 2.1 BASIS FOR APPEAL. An appeal may be brought only on the following grounds:
 - 2.1.1 Error by the PSC in interpretation of the Code of Ethics and Standards of Practice.
 - 2.1.2 Error by the PSC in application of the Code of Ethics and Standards of Practice to the facts of the case.

- 2.1.3 Total lack of evidentiary support for the PSC’s decision.
- 2.1.4 Undisclosed conflict of interest of a PSC member who participated in the Investigation and/or deliberation in the matter that had a material effect on the decision.
- 2.1.5 Wrongdoing on the part of a PSC member that had a material effect on the decision.
- 2.2 NOTICE OF APPEAL
 - 2.2.1 An appeal is initiated by filing a Notice of Appeal on Form 2A with the President within twenty-one (21) Days of the date of the mailing of the written decision of the PSC. Form 2A is attached hereto as Exhibit B.
 - 2.2.2 An appeal not submitted on Form 2A shall be rejected.
 - 2.2.3 All information requested on Form 2A must be provided, or it may be rejected.
 - 2.2.4 To be filed, the Notice of Appeal shall be sent by U.S. Mail or hand-delivered to CACM at its main office to the attention of the President.
 - 2.2.5 A Notice of Appeal shall be deemed filed on the day that it is received by CACM at its main office.
 - 2.2.6 If a Notice of Appeal is filed late, then the appeal shall be dismissed.
 - 2.2.7 Form 2A shall require the Appellant to provide a detailed statement of the reasons for the appeal. This shall include citation to the relevant rule(s), the reasons that each rule has been violated or not, the relevant facts, and the reason that the PSC’s decision should be reversed, modified, or remanded for further proceedings. Copies of all relevant documents shall be attached. Form 2A shall be signed by the Appellant.
- 2.3 ELIGIBILITY TO APPEAL
 - 2.3.1 Either Party may file an appeal.
 - 2.3.2 Only a final decision may be appealed.

- 2.3.3 Moot appeals shall not be reviewed.
- 2.4 ROLE OF PSC IN APPEAL
 - 2.4.1 The PSC is a Party to every appeal.
 - 2.4.2 On appeal, the PSC shall be represented by the PSC Chair and the PSC Investigator(s) who performed the relevant Investigation.
 - 2.4.3 The representatives of PSC shall attend the appeal hearing.
 - 2.4.4 At the appeal hearing, the PSC representative shall advocate upholding the PSC's decision and provide background as to how the PSC arrived at its decision.
 - 2.4.5 The PSC Chair and PSC Investigator(s) shall have no vote in deciding the appeal.
- 2.5 RECORD ON APPEAL
 - 2.5.1 The record on appeal shall include, without limitation, the following:
 - 2.5.1.1 The Original Complaint.
 - 2.5.1.2 The Formal Complaint.
 - 2.5.1.3 The Response(s) to the Original Complaint and Formal Complaint.
 - 2.5.1.4 All documentary evidence submitted to the Hearing Panel.
 - 2.5.1.5 The transcript, if any, of the witness testimony before the Hearing Panel.
 - 2.5.1.6 The PSC's written decision.
 - 2.5.1.7 The Notice of Appeal.
 - 2.5.2 Appellant shall prepare six copies of the record on appeal and file them with the President within twenty-one (21) Days after the date on which the Notice of Appeal was filed. The pages of the record on appeal, including any exhibits or documentary evidence, shall be consecutively numbered starting with "1".
 - 2.5.3 An appeal shall be based solely on the record on appeal, as described in 2.5.1. No

additional testimony or documents may be introduced.

2.6 APPOINTMENT OF ETHICS APPEALS COMMITTEE

2.6.1 The appeal shall be heard by an Ethics Appeals Committee (“EAC”) comprised of three persons appointed by the Board of Directors from the Board of Directors as stated in Article IV, section 4.12(b) of the Bylaws.

2.6.2 No member of the PSC who participated in the original hearing before the Hearing Panel, or who otherwise may have a conflict of interest, shall be permitted to serve on the EAC and shall immediately disqualify himself or herself from serving.

2.6.3 The EAC Chair shall be appointed by the Board of Directors to serve for a term of not less than one year. The EAC Chair shall continue to preside over any appeal pending at the end of his term until that appeal is concluded.

2.6.4 The EAC Chair shall serve on every EAC impaneled during his term as Chair. The other two members of the EAC shall be appointed by the Board of Directors.

2.6.5 The EAC Chair shall pursue appropriate training and education including, without limitation, review of previous decisions of the PSC and appeals therefrom.

2.7 INITIAL NOTICE TO APPELLEE; APPELLEE’S RESPONSE

2.7.1 Upon receipt of the Notice of Appeal, the EAC Chair shall Notify the Appellee that a Notice of Appeal has been filed. At the same time, the EAC Chair shall send a copy of the Notice of Appeal to the Appellee and ask the Appellee to file a Response.

2.7.2 The Appellee shall have twenty-one (21) Days from receipt of the notification that a Notice of Appeal has been filed to file a Response. The EAC Chair may, for good cause, exercise discretion and accept a late filing from the Appellee.

2.7.3 The Response shall contain a detailed statement of the reasons why the appeal should be denied. This shall include citation to the relevant rule(s), the reasons that each rule has been violated or not, the relevant facts, and the reason that the PSC’s decision should not be reversed, modified, or remanded for further proceedings. Copies of all relevant documents shall be attached. The Response

shall be signed by Appellee.

2.8 PRELIMINARY DETERMINATION BY EAC

2.8.1 Upon receipt of a Notice of Appeal, the President shall forward a copy to the EAC Chair.

2.8.2 Once appointed, the EAC shall review the Notice of Appeal and, by Majority Vote, shall determine if it meets the criteria for an appeal. This review does not constitute a review of the merits of the appeal.

2.8.2.1 At the discretion of the EAC Chair, the Notice of Appeal may be reviewed for sufficiency by an attorney who is not a member of the PSC or EAC. This attorney shall give an opinion as to whether the Notice of Appeal meets the criteria for an appeal but shall not evaluate the merits of the appeal. This attorney shall create a written report of his evaluation, which the EAC Chair shall forward to all EAC members. The EAC may consider this report in its review, but this report shall not be binding.

2.8.2.2 CACM will create a pool of qualified attorneys for this purpose.

2.8.3 If the preliminary determination by the EAC is that the Notice of Appeal is insufficient, then the Notice of Appeal shall be returned to the Appellant for further information. The Appellant shall have twenty-one (21) Days from the date of the request to provide the information or request an extension, or else the appeal shall be dismissed.

2.9 DUTIES OF THE ETHICS APPEALS COMMITTEE

2.9.1 The EAC shall conduct hearings on the appeal to determine whether the PSC's decision should be affirmed (in full or in part), reversed (in full or in part), modified, and/or remanded to the PSC.

2.9.2 The EAC's decision shall be confidential and shall be reported only to the President and the Parties, except to the extent that the discipline imposed requires publication.

2.10 NOTICE OF ETHICS APPEALS COMMITTEE APPEALS HEARING; PRE-HEARING PROCEDURES

- 2.10.1 At least twenty-one (21) Days before the hearing, the EAC Chair shall Notify the Parties of the date, time and place of the hearing and the names of the EAC members. Said notice shall also ask the Parties if they intend to be present at the hearing.
- 2.10.2 After being notified of the names of the EAC members, the Parties may challenge the EAC members for cause. This shall be done by written request filed at least ten (10) Days before the hearing, which states the grounds alleged as the basis for disqualification with supporting facts. The EAC shall determine the validity of any challenges and, by Majority Vote, may disqualify a member for cause.
- 2.10.3 At least ten (10) Days before the hearing, each Party shall Notify the EAC Chair whether he and/or his representative will be attending the hearing.
- 2.10.4 Before the hearing, copies of the record on appeal shall be distributed to all members of the EAC and the Parties.
- 2.10.5 Any Party may request a postponement of the hearing date by submitting a written request to the EAC Chair, who may grant postponements for good cause.
- 2.11 HEARING PROCEDURES
- 2.11.1 The EAC Chair shall preside at the EAC hearing, shall assure that these Disciplinary & Appeals Procedures are followed, and shall prescribe any necessary additional procedures for the hearing not inconsistent with the provisions herein.
- 2.11.2 The EAC hearing shall be closed to all except the EAC, the Parties, their legal counsel, the PSC Chair, the PSC Investigator(s), the court reporter, if any, and CACM staff and legal counsel.
- 2.11.3 At each EAC hearing, all voting EAC members must be present, either in person or by telephone.
- 2.11.4 The EAC hearing and executive session may be conducted either in-person or by teleconference, at the discretion of the EAC Chair. All persons present at the meeting must be able to hear the person participating by telephone, and the person participating by telephone must be able to hear all persons present at the meeting.

- 2.11.5 The Parties shall have the right to appear, to be represented by legal counsel, and to present their arguments.
- 2.11.6 If the EAC desires assistance from the CACM's legal counsel, legal counsel may participate in the proceedings. CACM shall bear the cost of that legal counsel.
- 2.11.7 The EAC Chair may recess the hearing from time to time.
- 2.11.8 The EAC Chair may exclude any person from the hearing who fails to conduct himself/herself in a manner conducive to a fair and expeditious hearing.
- 2.11.9 The EAC may hire a court reporter to transcribe the official hearing, and CACM shall bear the cost of that reporter. Either Party may also hire a court reporter to transcribe the hearing, and the cost of that service shall be paid for by the Party requesting it.
- 2.11.10 The Parties shall be responsible for their expenses to attend the hearing; however, CACM may provide assistance where it deems such assistance would be in the best interests of CACM.
- 2.11.11 The Appellant shall have the burden of showing that the PSC's decision should be reversed or modified.
- 2.12 HEARING OUTLINE. To ensure due process, the EAC shall be guided by the hearing outline in this section.
- 2.12.1 The EAC Chair shall make an opening statement citing the EAC's authority to hear the case, explaining the reason for the hearing, and introducing all persons present.
- 2.12.2 The Appellant shall be called upon to present his or her case to the EAC, stating specifically why the PSC's decision should be reversed or modified.
- 2.12.3 Members of the EAC and CACM legal counsel shall have the opportunity to question the Appellant.
- 2.12.4 The Appellee shall then be called upon to present his or her case to the EAC, stating specifically why the PSC's decision should not be reversed or modified.

- 2.12.5 Members of the EAC and CACM legal counsel shall have the opportunity to question the Appellee.
- 2.12.6 The PSC representatives shall advocate upholding the PSC's decision and provide background as to how the PSC reached its decision.
- 2.12.7 Members of the EAC and CACM legal counsel shall have the opportunity to question the PSC representatives.
- 2.12.8 The EAC Chair shall recess the hearing and excuse the Parties.
- 2.12.9 The EAC Chair shall immediately open an executive session of the EAC to discuss the case and to render a decision.
- 2.12.10 Only EAC members, CACM legal counsel, and designated CACM staff may be present at the executive session.
- 2.12.11 The EAC Chair shall permit each member of the EAC to discuss his or her views on the case.
- 2.12.12 By Majority Vote, the EAC shall decide whether to affirm or reverse the PSC's decision.
- 2.13 STANDARDS OF REVIEW
- 2.13.1 The purpose of appeal is to review for PSC error. To prevail on appeal, the Appellant must show that the PSC made an error and that the error was prejudicial.
- 2.13.2 On appeal, no new evidence or new arguments may be presented. No new witness testimony may be presented, and no new documents may be introduced. Any arguments or objections not presented at the original hearing before the PSC are waived.
- 2.13.3 On appeal, the PSC's decision is presumed to be correct.
- 2.13.4 Any ambiguity in the record shall be resolved in favor of affirming the PSC's decision.

2.14 REMEDIES ON APPEAL

2.14.1 On appeal, the EAC may:

2.14.1.1 Affirm the PSC's decision, in full or in part.

2.14.1.2 Reverse the PSC's decision, in full or in part.

2.14.1.3 Reverse the PSC's decision and remand it to the PSC with instructions for further proceedings.

2.14.1.4 Remand without decision to the PSC with instructions for further proceedings.

2.14.1.5 Remand to the PSC with instructions to reconsider all or part of its decision.

2.14.2 If an Appellant resigns his or her membership or status at any time after a Notice of Appeal has been filed but before the EAC issues its decision, the PSC's decision shall stand as rendered.

2.15 DECISION OF ETHICS APPEALS COMMITTEE

2.15.1 The decision of the EAC shall be by Majority Vote.

2.15.2 The EAC's decision shall be confidential and reported only to the President and the Parties, except to the extent that the discipline imposed requires publication. Failure of confidentiality shall not invalidate the decision.

2.15.3 The EAC shall render its decision in writing no later than forty-five (45) Days after the matter is submitted.

2.15.4 The decision of the EAC shall be final and binding.

2.15.5 The EAC shall send a copy of its decision to the President and to the Parties.