

MEMBER DISCIPLINE PROCEDURE

A member of the OCBAА is subject to the rules and procedures of the OCBAА for any action that is determined to constitute a material violation of the Bylaws, or Code of Ethics of the OCBAА, or other conduct which is seriously prejudicial to the OCBAА. Such discipline may take the form of expulsion, suspension, or censure for cause by the OCBAА. Persons under expulsion, or for the period of suspension by the OCBAА, shall be denied the rights and privileges of membership in this Association.

PROCEDURES FOR USE BY MEMBER CONDUCT COMMITTEE

Part A - The Complaint

1. Submission of Complaint. The Member Conduct Committee shall receive and consider only those complaints which are delivered by traceable mail to the OCBAА headquarters. Complaints should be addressed to the attention of the Chair, Member Conduct Committee.

2. Form and Contents of Complaint. The complaint shall be in the form of an affidavit, typewritten, notarized, and signed by a member of OCBAА in good standing. The complaint shall include:

- a) the name and address of the OCBAА member(s) whose conduct is the subject of the complaint;
- b) a statement which sets forth with reasonable specificity the alleged conduct of the OCBAА member(s) which is alleged to constitute a material violation of the Bylaws, or Code of Ethics of OCBAА or conduct which is seriously prejudicial to OCBAА;
- c) the specific provisions of any documents described in Part A.2(b) which the conduct alleged is thought to violate or contravene;
- d) the name and address of the person(s) believed by the complainant to have knowledge pertaining to the subject of the complaint;
- e) the identification and location of any documentation or materials upon which the complaint in whole or part, is based; the complaint may be accompanied by any materials or documentation which are thought to be relevant to the Committee's consideration and review;
- f) a statement declaring that the person submitting the complaint will be present at any hearing at which the complaint is considered upon the written request of either the Member Conduct Committee or the OCBAА member charged in the complaint.

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3. Acknowledgment; Copies and Distribution. The Member Conduct Committee Chair shall acknowledge receipt of the complaint by letter to the complainant(s). Concurrently the Chair shall transmit copies of the complaint to the Committee members. No other distribution or duplication of the complaint shall be made, except (1) the Committee may furnish a copy to OCBA A counsel in connection with a request for legal advice relating to the complaint, (2) the Committee may furnish a copy to a third party during the course of its preliminary investigation, subject to the limitation of disclosure set forth in Part B.1(c), and (3) if a proceeding is instituted against a member, the Committee shall furnish a copy of the complaint to such member as provided in Part C.3(b).

4. Timeliness of Complaint. No complaint submitted pursuant to Part A.1 shall be accepted or considered by the Member Conduct Committee if based upon conduct alleged to have occurred more than two years prior to the date on which the notarized complaint is received. Such complaints shall be returned by the Chair, without distribution or copying, to the OCBA A member submitting the complaint.

Part B - Review of the Complaint

1. Preliminary Investigation of Complaint

a) The Member Conduct Committee shall have a maximum of one hundred and twenty days, from the date the Chair acknowledges receipt of the complaint, to consider the complaint, assemble information relevant to the complaint, and investigate and prepare the Report on Preliminary Investigation.

b) During the period of its investigation, the Member Conduct Committee, acting on its own behalf or through ad hoc committees appointed by and under the direction of the Chair of the Member Conduct Committee, may seek relevant information from OCBA A employees, members and others as may be appropriate to the nature and contents of the complaint. Such relevant information as may be obtained shall be reduced to writing and included in the file or records maintained by the Chair of the Member Conduct Committee pertaining to the specific complaint under review.

c) During the Committee's investigation, the contents of the complaint, identity of the persons involved and the scope of the Committee's inquiry shall remain undisclosed to the extent practicable, consistent with the need for information and expeditious review. If the identity of any person complained against is disclosed pursuant to this Part B.1(c), the person or entity to whom such disclosure was made shall be notified of the complaint's final disposition.

Part C - Initiation of Proceedings Against OCBA A Member

1. Requisite Findings. The Member Conduct Committee must determine whether a reasonable basis exists for believing that:

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- a) The facts alleged in the complaint, if proven, constitute cause for expulsion, suspension, or censure of the member(s) charged; and
- b) The facts alleged in the complaint can be proven. These findings shall be made in writing by the Committee, dated and signed by its members. These findings shall be the Committee's "Report on Preliminary Investigation" and shall be distributed pursuant to Part C.2(b) or Part C.3.

2. Termination of the Investigation; Notice

- a) The Member Conduct Committee, upon determination that there is not a reasonable basis for believing both that the facts alleged in the complaint constitute cause, and that the facts can be proven, shall conclude its investigation.
- b) Notice of the Committee action to terminate the complaint shall be sent by traceable mail to the complainant from the Chair, and shall include a copy of the Report on Preliminary Investigation.
- c) The Committee shall reconsider or review its findings only upon receipt by the Committee of new or additional information from the complainant which the Committee deems material. The complainant shall have ten business days following service of notice by the Chair of the termination of investigation to tender such information to the Chair.
- d) Upon timely receipt of new or additional information, the Committee shall have a maximum of 90 days, from the date the Chair acknowledges receipt of said information, to reconsider its decision and proceed according to Parts C.1 and C.2 or C.3. If the Committee affirms the findings contained in its Report on Preliminary Investigation terminating the matter, no further reconsideration shall be granted. The Committee may, at its discretion, decline to undertake a preliminary investigation upon a second or succeeding complaint pertaining to the same or substantially similar conduct, or subject matter, involving the person(s) charged in the initial complaint.
- e) If there is any disclosure or publication of the complaint or its contents by the complaining party before the Member Conduct Committee has concluded its Report of Preliminary Investigation, the Committee may discontinue its investigation and remit the complaint to the initiating party. In such event, the Chair of the Member Conduct Committee shall notify the Executive Committee of its actions.
- f) The Committee may terminate its investigation if the complainant fails to respond in kind to a written request for further information within sixty (60) days following receipt of such request, or if the complainant has initiated legal proceedings which are based upon the same or related circumstances underlying the complaint.

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3. Procedure Upon Affirmative Findings

a) Upon affirmative findings by the Committee that a reasonable basis exists for believing that the facts alleged in the complaint constitute cause for expulsion, suspension or censure and that the facts can be proven, the Chair shall advise the President, by transmittal of the Report on Preliminary Investigation, of the Committee's decision and request the date, place and time at which the complaint shall be presented to the Hearing Board as provided in Part D of these procedures. The date selected by the President shall be chosen to permit service of notice on the OCBAAs member(s) to be charged in the Committee's presentment at least ninety days prior to the date set for hearing the matter and shall not be more than six months following receipt by the President of the Report on Preliminary Investigation.

b) The Member Conduct Committee Chair shall serve notice, by traceable mail, on the OCBAAs member(s) to be charged with conduct constituting cause. The notice shall state (1) the time, place and date of the hearing designated for presentation of the complaint, and (2) the date by which the member(s) charged shall notify the Committee Chair whether the member will attend the hearing in person, or be presented by a person authorized by the member. A copy of the complaint and the Report on Preliminary Investigation by the Committee shall accompany this notice. The notice shall also provide that any written presentation intended for submission by the member(s) be received by the Committee Chair for distribution to the Hearing Board thirty days in advance of the date designated for presentation of the matter. On the same date the Committee also shall have available for distribution to the Hearing Board and for service on the member(s) charged any written materials which are to be part of its presentment to the Hearing Board.

c) Any persons appearing before the Hearing Board on behalf of either the Member Conduct Committee or the member(s) charged, shall present written authorization for their appearance.

Part D - Hearing Board; Procedures

1. Selection and Composition. The Executive Committee shall select from a panel appointed by the Board of Directors not fewer than three nor more than seven members to serve as the board to hear the presentations by the Committee and by the OCBAAs member(s) charged with conduct alleged to constitute cause for censure, suspension or expulsion. The Executive Committee shall at the same time select alternate members, designated as first alternate and second alternate, to serve as may be required. The Hearing Board shall select one of its members to be the Chair of the Hearing Board who shall preside over the hearing and prepare the findings and recommendations of the Hearing Board. The Hearing Board, by plurality vote, shall disqualify one or more members, if in the circumstances such action is warranted to assure impartiality. Any member may disqualify himself or herself in like circumstances. An accused member

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may request disqualification of Hearing Board members in writing to the Hearing Board Chair. Such request shall be made at least three weeks prior to the date of hearing. Should any disqualifications reduce the Hearing Board to fewer than three members, the Chair of the Hearing Board shall designate alternates to serve in the order determined by the Executive Committee.

2. Term of Hearing Board Members. The Executive Committee may select members of the panel appointed by the Board of Directors, to serve either as Hearing Board members on individual complaints or to serve as Hearing Board members for a fixed term not to exceed twenty-four months, except that a member shall continue to serve on a Hearing Board in any complaint proceedings not concluded prior to the date for termination of his appointment. If selected to serve a fixed term, a member may resign by written notice to the Executive Committee. Such resignation shall become effective on the date of receipt by the Executive Committee or the close of the complaint proceedings in which the individual is serving as a Hearing Board member, as specified by the resigning member in such notice.

3. Procedure at the Hearing

a) The Hearing Board Chair shall convene the session to consider the presentment by the Committee and the submission(s) by the member(s) charged. The session shall be in confidence and shall commence at the date and time specified in the notice. A Hearing Board setup should be used with separate tables for the complainant and the accused each facing the table for the Hearing Board. A sound recording shall be made of the hearing. The sound recording and any written material submitted during the proceeding shall be retained by the Chair until final action on the case is taken by the Hearing Board. Thereupon, all recordings and written materials presented to the Hearing Board shall be filed with the Secretary of the Board of Directors.

b) The Hearing Board Chair shall be the final authority in any matters relating to procedures and administrative functions pertaining to the conduct of the hearing. The hearing shall include:

- (1) Opening instructions by and at the discretion of the Hearing Board Chair;
- (2) Opening statements by the Member Conduct Committee and the member charged;
- (3) Presentation of evidence by the Member Conduct Committee;
- (4) Cross-examination by the member charged;
- (5) Presentation of evidence by the member charged;
- (6) Cross-examination by the Member Conduct Committee;
- (7) Closing statements by the Member Conduct Committee and the member charged; and
- (8) Conclusion/adjournment by the Hearing Board Chair.

Part E - Deliberation and Findings by Hearing Board

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1. Deliberation Upon Evidence Presented. Upon conclusion of the hearing, the Board shall convene in executive session to consider the evidence presented.

2. Findings, Cause and Sanction

a) The Hearing Board, acting through its Chair, shall prepare in writing its findings, and determinations or recommendations, on the basis of the evidence presented, whether the conduct in question:

- (1) constitutes a material violation of the Bylaws or Code of Ethics of OCBA A; or
- (2) is seriously prejudicial to OCBA A.

The Hearing Board, after resolving these issues in Executive Session, shall be reconvened for the purpose of recording the ballots and the final action taken pertaining to the issue of cause for censure, suspension or expulsion.

b) If the Hearing Board finds cause, it shall concurrently record its vote and determination on the issue of censure, suspension or expulsion. The Hearing Board shall submit to the Board of Directors its recommendation together with the written opinions or statements, if any, from individual members of the Hearing Board. A finding that an accused member's conduct constitutes cause for censure shall require the affirmative vote of a majority of the Hearing Board members. A finding that an accused member's conduct constitutes cause for expulsion or suspension shall require such majority vote and, in addition, the affirmative vote of two-thirds of the members of the Hearing Board that the accused member's conduct was seriously prejudicial to OCBA A. Subject to the vote requirements set forth in the preceding sentences, the determination of whether to expel, suspend or censure an accused member shall be made by the Hearing Board based on the severity of the wrongful conduct of the accused member, the extent to which OCBA A's interests were prejudiced as a result of such conduct, and other factors which the Hearing Board considers relevant in the circumstances of the particular case.

3. Final Hearing Board Action; Notice

a) Final Hearing Board action shall comprise the recorded ballots and findings made in writing on the issues of cause and sanction.

b) Notice of final Hearing Board action shall be served, by traceable mail, on the OCBA A member(s) charged, the OCBA A member(s) initiating the complaint, the Chair of the Member Conduct Committee, and the OCBA A Board of Directors. The notice shall include the record of the final action by the Hearing Board. Such notice shall be served by the Chair of the Hearing Board within five days of the date on which the Hearing Board takes its final action.

c) Within thirty days of the receipt of the notice of the final action of the Hearing Board by the Board of Directors, the Executive Committee shall notify, by traceable mail, both the member(s) charged and the Chair of the Member Conduct Committee of the date on which the Board of Directors will review the final action of the Hearing Board. The member(s) charged may submit in writing

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such comments and recommendations to the Board of Directors as they deem relevant to that Board's deliberations.

4. Failure to Make Presentation; Delay

a) Failure to Make Presentation. In the event that the member or the authorized representative fails to appear on the day of the Hearing Board meeting first designated for hearing the matter, the Hearing Board shall act upon the written presentation, if any, submitted by the member pursuant to Part C.3(b). In the event no presentation in writing is submitted and the member or authorized representative fails to attend on the designated date of the Hearing Board meeting, the matter may be considered, in the discretion of the Hearing Board, on a subsequent date. The Chair of the Hearing Board shall notify the member and the Committee, by traceable mail, of the new date, time and place for such postponed hearing, which notice shall be given within such period as the Hearing Board determines to be reasonable under the circumstances. Within fourteen days from the mailing of notice, the member shall submit in writing to the Chair of the Hearing Board the presentation to be made at the rescheduled hearing. Such written presentation may be supplemented by a presentation made in person by the member(s) or the authorized representative(s) at the rescheduled hearing, but failure of the member(s) or the authorized representative(s) to appear shall not be cause for further delay of the Hearing Board's final action. If the member fails to submit a written presentation as provided in this section, the Hearing Board shall act upon the presentation of the Committee submitted pursuant to Part C.3.

b) Postponement or Delay. The length of postponement or delay of hearing or final action by the Hearing Board shall be discretionary; provided, however, no delay or postponement approved by the Hearing Board shall operate to extend the final action of the Hearing Board beyond nine months from the date on which the hearing procedure was initiated in accordance with Part C.3.

Part F - Board of Directors; Sanction, Publication

1. Sanction by Board of Directors. A director who has signed the complaint against the OCBA member(s) is disqualified to vote. Any other director may disqualify himself on his own motion or be disqualified by vote of plurality of the Board members voting on the question of sanction.

2. Final Action by the Board of Directors (On Review of Hearing Board Decision). Final action by the Board of Directors shall comprise the recorded ballots and findings made in writing on the issues of cause and sanction. If the Hearing Board's findings as to cause or determination as to sanction imposed are not sustained by the required vote of the Board of Directors, the Board shall make its own findings as to cause and determination as to sanction. The Board of Directors, if it sustains the Hearing Board's findings as to cause, may reduce, but shall not increase, the sanction determined by the Hearing Board.

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3. Publication of Final Action by Board

- a) The Board at its discretion may notify the membership of OCBA of its final action and the final action by the Hearing Board.

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(This provides a sample letter to assist the Petitioner furnish the information required by this procedure.)

John or Jane Doe
OCBAA Member
1234 Street Address
City, State, ZIP Country
Phone: 1-234-567-8910 FAX: 1-234-567-8911
E-Mail: jdoe@any.com

Date: Month, Day, Year
Submission of Complaint Letter

Chair, Member Conduct Committee
OCBAA
(OCBAA address), CA

Dear Sir or Madam:

I am herewith submitting this affidavit of a formal complaint of (Select one: misconduct, unethical conduct) against a current member of the OCBAA, in accordance with OCBAA policy.

Named Subject(s) of the Complaint
(Provide this for each subject)

The member subject(s) is(are) in question:

Name: Frank or Mary Smith (s)
Address: Complete Mailing Address, ZIP, Country Code, etc.
E-Mail Address: fsmith@any.com
Phone: 1-234-567-8910
FAX: 1-234-567-8911

Statement of Alleged (Select one:) Misconduct or Unethical Conduct

Frank/Mary Smith is alleged to have committed the act of XYZ in violation of the Code of Ethics of OCBAA on Month, Day, Year. The circumstances, to the best of my knowledge, were these:

1. Statement of first fact
2. Statement of second fact
3. etc.

Document Alleged to Have Been Violated

The following documents of the OCBAA are alleged to have been violated (Check all which are applicable):

OCBAA Code of Ethics: _____
OCBAA By-Laws: _____

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OCBAA Policy or Procedure Manual: _____

Specific Provisions of Above Documents Violated

Provision 1: _____

Provision 2: _____

Person(s) Having Knowledge Pertaining to the Subject of the Complaint

Name: Robert Johns
Address: Complete Mailing Address, ZIP, Country Code, etc.
E-Mail Address: rjohns@company.domain
Phone: 1-234-567-8910
FAX: 1-234-567-8911

Name: Marsha Brown
Address: Complete Mailing Address, ZIP, Country Code, etc.
E-Mail Address: mbrown@company.domain
Phone: 1-234-567-8910
FAX: 1-234-567-8911

Identification of Documentation or Materials

1. Identification: Memo, ABC to DEF, dated: Month, Day, Year, Subject: Witness to Misconduct.

Location: In the possession of 3rd party, Mark Smith (Address, Phone, E-Mail, FAX)

Attached Documentation or Materials

Complainant Statement Agreeing to Attend Hearing

I declare that I will be present at any hearing at which the complaint is considered, upon the written request of either the Member Conduct Committee or the OCBAA member charged in the complaint.

Declaration of Truth of Statement

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on _____

Signature: _____