

Tehachapi MLS Rules Exhibit B

Citation Policy (Tehachapi MLS Rule 14.3)

The purpose of this citation policy is to ensure the integrity of the MLS including the currency and accuracy of its information. Fines will be issued and processed in accordance with this Citation Policy. The citable offenses and fines are subject to change upon approval of the AOR/MLS Board of Directors. The Citation Policy is in addition to and does not replace the provisions of Section 14 of the Tehachapi MLS Rules.

- A.** For the purpose of the Fine Schedule, the number of violations will be tracked on a calendar year basis. On the first day of each calendar year the violation count for each MLS member will be reset to zero (0).
- B.** A listing that contains one or more violations of the Citation Policy is considered a violation event for purposes of the Fine Schedule regardless of the category or nature of the violation.
- C.** A listing that contains more than one violation on the same day will be treated as a single violation for purposes of the Fine Schedule. Multiple violations that occur on the same day but are reported separately are treated as a single violation.
- D.** A violation must be corrected within two (2) calendar days of notice of violation sent to the Violator and/or Responsible Participant. Receipt of notice is presumed to be the sooner of three (3) calendar days after mailing or one (1) calendar day after email or facsimile transmission. Failure to correct a noted violation within the two (2) day time period allotted will result in a new violation for the uncorrected violation with the associated fine for that level of violation. Failure to correct a violation within the two (2) day correction period may also subject a non-conforming listing to removal by the MLS from active display. New violations may be issued for any remaining uncorrected violations until the violations are corrected or the maximum fine is reached as set forth below.
- E.** The fine amount is determined by the total number of violations accumulated by each MLS member during a calendar year. *[Note: Should match period in A.]*
- F.** Fines are due within fifteen (15) calendar days of receipt of a violation notice. Receipt of notice is presumed to be three (3) business days after mailing or one (1) calendar day after email or facsimile transmission.
- G.** If a Violator believes that a violation notice and fine was issued in error, the Violator may request a hearing in accordance to the procedures set out by their MLS/AOR. Prior to requesting a hearing, the violation must be corrected.
- H.** Failure to pay assessed fines may result in suspension of MLS privileges as detailed in Paragraph 17.1 of the MLS Rules and Regulations.
- I.** The MLS Committee and/or the Board of Directors reserves the right, at its discretion, to charge a Participant or Subscriber with rules violations by virtue of the hearing process, including the possibility of additional fees or fines, suspension or expulsion, rather than utilizing the citation process. Thus, the below fines may not be all inclusive. Any Participant or Subscriber who accumulates in excess of 5 (five) violations in one calendar year, unless otherwise specified, may be referred to the MLS Committee and/or the Board of Directors for a review to determine whether or not further discipline and possible suspension of MLS service is warranted.
- J.** Reporting of violations will remain confidential.
- K.** The violation fine schedule is as follows:

TIER ONE:

- **First Violation: Warning Letter**
- **Second Violation: \$100.00** or successfully complete Test in Lieu of Fine (if such test is offered by AOR/MLS)
- **Third and Subsequent Violations: \$200.00**

If such a test is offered by the AOR/MLS and if the Violator opts to take the test in lieu of paying the fine for a Second Violation, the Violator will pay a \$50.00 non-refundable one-time fee and complete the test within a 60-day period, with 80% or higher passing grade. The Violator will be given the opportunity for one make-up session only. Failure to complete the make-up session will result in assessment of the full fine amount set forth for a Second Violation.

As set forth in Section D above, violations must be corrected within **two (2) calendar days** of notice. Violations which remain uncorrected subject the violator to the imposition of new penalties and removal of the listing from active display.

The maximum accumulated fine for a single violation may not exceed the top amount of \$15,000 allowed by NAR for assessment of financial penalty. If the maximum accumulated fine amount has been assessed and the violation has not been corrected, the Violator's MLS privileges may be suspended until all accumulated fines have been paid and the noted violation has been corrected.

Tier One Offenses are as follows:

1. Non-Completion of Required MLS Orientation Program Within Set Time Allowed [Rule 4.0 (*Orientation*)]
2. Failure of Participant or Subscriber to Notify the MLS of Termination, Transfer, or Addition of Any Clerical Users Affiliated with Participant or Subscriber [Rule 4.3 (*Notice re Clerical Users*)]
3. Failure of Participant to Notify the MLS of Termination, Transfer, or Addition of any Licensees Under Participant's License [Rule 4.4 (*Notice re Licensees*)]
4. Failure to Properly Designate/Correlate License Type [Rules 4.1.3, 4.2.3 (*Redundant Participant/Subscriber Qualifications*)]
5. Failure to Properly Specify Listing Type or Class [Rules 7.2-7.3 (*Listing Type or Class*)]
6. Failure to Update/Change Listing Information [Rule 7.8 (*Change of Listing Information*)]
7. Unauthorized Cancellation/Withdrawal of Listing; [Failure to Timely Provide to MLS Written Seller Withdrawal Instructions or Broker's Notice of Dispute](#); Failure of Ongoing Obligation to Report Sold's; [Rule 7.9 (*Cancellation/Withdrawal of Listing Prior to Expiration*)] ([Custom Sept.17.2019](#))
8. Failure to Provide Complete Listing Information [Rule 7.11 (*Detail on Listings*)]
9. Failure to Offer Unconditional Compensation [Rule 7.12 (*Unilateral Contractual Offer*)]
10. Failure to Comply with Auction Listing Requirements [Rule 7.24 (*Auction Listings*)]
11. Failure to Disclose REO Status [Rule 7.27 (*REO Disclosure*)]
12. Failure to Disclose Short Sale Status [Rule 7.28 Short Sale (Lender Approval) Listings]
13. Failure to Input Accurate Information [Rule 8.3 (*Accuracy of Information; Responsibility for Accuracy*)]
14. Failure to Provide Seller's Written Direction to Alter Time of Submission of Offers; Failure to Provide Clear and Accurate Notice of Altered Offer Presentation Date/Time [Rule 9.4 (*Presentation of Offers*)]
15. Failure to Timely Provide Written Verification that Offer Was Presented (or that Seller Waived the Obligation to Have Offer Presented [Rule 9.5 (*Submission of Offers and Counter-Offers*)]
16. Failure to Timely/Accurately Report Listing Status, Status Changes and Sales [Rule 10.1 *Statuses*, Rule 10.2 (*Reporting of Sales*)]
17. Failure to Timely Report Cancellation of Pending Sale [Rule 10.4 (*Reporting Cancellation of Pending Sale*)]

18. Failure of Requisite Authority to Submit Listing Content [Rule 11.4 (*Authority to Put Listings in MLS Compilation*)]
19. Wrongful Use of Photographs/Use of Photographs on a Listing Without Proper Authorization [Failure to submit photo; Use of a Virtual Tour link that does not dead end and leads to another URL](#). [Rule 11.5 (*Photographs/Images on the MLS*)] (**Custom March.26.2013**); (**Custom Sept.17.2019**)
20. [Failure to Provide Lawfully Required Privacy Notices and Opt-Out Rights](#) [**Rule 11.10 (Data Privacy)**] (**Add Jan.1.2020**)
20. 21. Misuse of Public Remarks; Failure to Limit Public Remarks to Marketing, Description and Condition of the Property Wrongful Use of Remarks on a Listing Without Proper Authorization [Rule 12.5 (*Use and Misuse of Remarks*)] (**Renumber Jan.1.2020**)
21. 22. Unauthorized Use of Term "Sold"; Impermissible Use of Listing Content/Display of Non-Allowable Listing Content [Rule 12.7 ("*Sold*" Signs, Use of the Term "Sold" and Advertising Sold Listings)] [12.15.1 \(Copies to Prospective Purchasers\)](#), [IDX Rule 12.16 \(s\) \(Disclaimer\)](#), [VOW Rule Section 12.19.17](#). (**Renumber Jan.1.2020**)
22. 23. Unauthorized Advertisement of Listing of Another Broker [Rule 12.8 (*Advertising of Listing Filed with the MLS*), Rule 12.8.1 (Advertising of Listing in Printed Neighborhood Market Report)] (**Renumber Jan.1.2020**)
23. 24. Unauthorized Use of Statistical Reports, Sold Data or Comparable Reports in Advertising [Rule 12.9 (*Limitations on Use of Information in Advertising*)] (**Renumber Jan.1.2020**)
24. 25. Failure to Provide Adequate Informational Notice and/or Disclaimers [on Print or Non-Print Forms of Advertising](#) or Other Forms of Public Representations [Rule 12.9 (*MLS Information in Advertising*), Rule 12.15.1 (*Copies to Prospective Purchasers*), [IDX Rule 12.16\(s\) \(Disclaimer\)](#), [VOW Rule Section 12.19.17](#)]. (**Custom July.15.2014**) (**Renumber Jan.1.2020**)

TIER TWO:

- **First Violation: Warning Letter**
- **Second Violation: \$200.00**
- **Third and Subsequent Violations: \$300.00**

As set forth in Section D above, violations must be corrected within **two (2) calendar days** of notice. Violations which remain uncorrected subject the violator to the imposition of new penalties and removal of the listing from active display.

The maximum accumulated fine for a single violation may not exceed the top amount of \$15,000 allowed by NAR for assessment of financial penalty. If the maximum accumulated fine amount has been assessed and the violation has not been corrected, the Violator's MLS privileges may be suspended until all accumulated fines have been paid and the noted violation has been corrected.

Tier Two Offenses are as follows:

1. Failure to Comply with "Certification of Nonuse" (back fees owing under Certification to be cumulatively added to citation amount) [Rule 5.1.6 (*Certification of Nonuse*)]
2. Failure to Input a Required Listing; [Failure to Timely Submit a Required Listing-Failure to Disclose Known Additional Property Owner Information](#) [Rule 7.5 (*Mandatory Submission*)] (**Amended M March.2020**)
3. Failure to Provide Signed Seller Exemption; [Failure to Timely Submit Signed Seller Exemption; Exceeding Permissible Scope of Office Exclusive](#); Failure to Submit Compliant Signed Seller Exemption [Rule 7.6 (*Exempted Listings*)] (**Amended M March.2020**)
4. Entry of a Listing as New after Withdrawn without a New or Amended Listing Contract [Rule 7.8 (*Change of Listing Information*)]
5. Failure to Disclose Interest by a Broker Participant or R.E. Subscriber in the Subject Listing [Rule 7.17 (*Broker/Agent as Principal*)]

6. Failure to Remove Expired Listing; Failure to Obtain Seller's Written Authorization before Extension/Renewal [Rule 7.19 (*Expiration, Extension and Renewal of Listings*)]
7. Failure to Disclose Dual Variable Commission [Rule 7.22 (*Dual /Variable Rate Commissions*)]
8. Prohibited Co-Listing [Rule 7.25 (*Co-Listing*)]
9. Violation of DOM/CDOM Calculation [Rule 7.26 (*Days on Market/Cumulative Days on Market Calculation*)]
10. Failure to Provide Appropriate Written Documentation of Listing; [Failure to Disclose Known Additional Property Owner Information](#) [Rule 8.2 (*Written Documentation*)] (**Amended March.2020**)
11. Failure to Correct Incomplete or Inaccurate Information after MLS Notification [Rule 8.3 (*Accuracy & Correction*)]
12. [Misrepresentation of the Availability of Access to Show or Inspect a Listed Property; Failure to Abide by Showing Availability Representation](#) [Rule 9.3 (*Availability to Show or Inspect*)] (**Added and remaining renumbered March.2020**)
- ~~12.~~ 13. False Representations; Failure to Abide by True Picture Standard of Conduct [Rule 12.10 (*False or Misleading Advertising and Representations*)]
- ~~13.~~ 14. Violation of Competency Standard [Rule 12.21 (*Participant and Subscriber Standards of Conduct*)]
- ~~14.~~ 15. Failure to Provide MLS- Approved Lockbox/[Satisfy Reasonably and Timely Access Requirements](#) [Rule 13.2.2 (*Lockbox Requirements*)]" (**Amended May 21, 2019**)
- ~~15.~~ 16. (**Dec.2017 Members did NOT adopt Rule.**) ~~Violation of Temporary Code Procedure [Rule 13.2.3 (*Issuing Temporary Codes*)]~~
- ~~16.~~ 17. Failure to Timely Remove Lockbox after COE or Expiration/Cancellation of Listing [Rule 13.11 (*Lockbox Removal*)]

TIER THREE:

- **First Violation: Warning Letter**
- **Second Violation: \$300.00**
- **Third and Subsequent Violations: \$400.00**

As set forth in Section D above, violations must be corrected within **two (2) calendar days** of notice. Violations which remain uncorrected subject the violator to the imposition of new penalties and removal of the listing from active display.

The maximum accumulated fine for a single violation may not exceed the top amount of \$15,000 allowed by NAR for assessment of financial penalty. If the maximum accumulated fine amount has been assessed and the violation has not been corrected, the Violator's MLS privileges may be suspended until all accumulated fines have been paid and the noted violation has been corrected.

Tier Three Offenses are as follows:

1. Failure to obtain sellers authority to list in MLS [Rule 8.1 (*Listing Agreement and Seller's Permission*)]
2. Failure to be Physically Present when Providing Access to a Listed Property [Rule 9.9 (*Physical Presence of Participant or Subscriber*)]
3. Failure to follow or exhaust required internal pre-procedure for participant vs participant complaints of unauthorized use of listing content prior to proceeding to Court [Rule 11.11 (*Pursuing Complaints of Unauthorized Use of Listing Content*)]
4. Failure to timely notify of DRE or BREa adverse action [Rule 12.1 (*Notification of California Department of Real Estate (DRE) or California Bureau of Real Estate Appraisers (BREa) Action*)]
5. Unauthorized Use of MLS Information [Rule 12.11 (*Use of MLS Information*)]
6. Unauthorized Sharing of MLS Information and Pass Codes; Use of MLS by Unauthorized Party [Rule 12.12 (*Confidentiality of MLS Information*)]

7. Unauthorized Clerical User Access and Use of MLS Information [Rules 12.12.1, 12.14.1 (Clerical Users)]
8. Misuse of Reproduction of MLS Information [Rule 12.15 (*Reproduction*)]
9. Sharing the MLS compilation or portion thereof with any third party vendor not authorized by the MLS [Rules 12.11 (*Use of MLS Information*), 12.12 (*Confidentiality of MLS Information*) and 12.15 (*Reproduction*)]
10. Unauthorized Reproduction of Confidential Fields and Information [Rule 12.15.2 (Confidential Fields)]
11. Unauthorized Compilation Downloading or Transmission of Data; Failure to Restrict Access to Authorized Party [Rule 12.15.4 (*Downloading onto Computers*)]
12. Misuse of MLS Data on Public Website; Violation of IDX Rules [Rule 12.16 (*IDX*)]
13. Misuse of MLS Data on Public Website; Violation of VOW Rules [Rule 12.19 (*VOW*)]
14. Unauthorized Sharing of Lockbox Key [Rule 13.2 (*Key Use and Service*)]
15. Wrongful Use or Removal of Lockbox Contents [Rule 13.2.1 (*Use of Lockbox Contents*)]
16. Failure to Account for Lockbox Key [Rule 13.4 (*Accountability*)]
17. Failure to Obtain Seller's Permission to Place a Lockbox [Rule 13.6 (*Written Authority*)]
18. Unauthorized Entrance into a Listed Property; Failure to Follow Showing Instructions [Rule 13.7 (*Listing Broker's Permission*)]
19. Failure to Report Lost or Stolen Lockbox Keys [Rule 13.8 (*Reporting Missing or Unaccountable Keys*)]