

NZ STOCK AND STATION AGENTS ASSOCIATION (“NZSSA”)

FORM OF COMPLAINT (see Section 4 of the NZSSA Code of Conduct “the **Code**”)

Complainants Name address and phone number (“Complainant”):

Name and address of NZSSA member or members whom against the Code breach is alleged (“Respondent”):

Particulars of complaint (including specification of the clause(s) of the Code that the respondent has alleged to have violated):

Particulars of supporting evidence (oral and documentary, if any, to substantiate the complaint):

Signature

VERIFICATION

I _____ the

Complainant do hereby declare that what is stated above is true to the best of my information and belief.

Verified today the _____ day of _____ 20_____

at _____.

Signature

PLEASE ALSO SUPPLY THE FOLLOWING:

1. Copy of the Agreement(s) relating to the complaint.
2. Has this matter been referred to any Court of Law or any other dispute resolution such as Arbitration or mediation? If so, please provide details.

EXTRACT FROM THE CODE PROVIDING DETAILS ON THE COMPLAINTS PROCESS APPLICABLE TO THE COMPLAINT

Procedure

The following is the procedure for dealing with an alleged breach of the Code of Conduct:

Lodging the Complaint

2.1 A complaint, being an allegation of a breach of the Code of Conduct, may be made by any individual or entity concerning any person who is an NZSSA member or was a member at the time relevant to the complaint.

2.2 Placing such a complaint shall signify acceptance that the matter shall be determined in the manner prescribed in this Schedule, including the clauses dealing with publication of the findings of this consideration of the complaint. The complainant also specifically waives any right to take civil action against the NZSSA should he or she disagree with the process or findings of the NZSSA.

2.3 Nothing in this Schedule shall preclude the complainant or others taking civil or criminal proceedings against the member in question, and this process should not be seen as an alternative to doing so if appropriate.

2.4 The complaint must be made on the prescribed form (*to be developed*) setting out particulars of the alleged breach and attaching any documentation or other relevant details. The complaint shall be addressed to the NZSSA Chairman, or if it is in relation to the conduct of the Chairman or an agent or business that is associated the Chairman, to the Deputy Chairman. This person shall be the “Receiver” of the complaint.

Receiving the Complaint

2.5 The Chairman (or Deputy Chairman) may delegate to any member of the Executive Committee to act on his or her behalf as Receiver to discharge the remainder of his or her responsibilities in relation to the matter if he or she sees fit. For example, if there is a conflict of interest, or if he or she is unable to fulfill the Receiver’s requirements within the time required.

2.6 The Receiver must acknowledge receipt of the complaint in writing, and notify the member of the complaint in writing (attaching a copy of the complaint and all documentation provided with the complaint), including that the complaint has been referred to the Discipline and Professional Conduct Board who will hold a hearing into the complaint.

Referral to Discipline and Professional Conduct Board

2.7 The Receiver must refer the complaint to the Chair of the Discipline and Professional Conduct Board within 5 working days of receipt.

2.8 If the Chair of the Discipline and Professional Conduct Board is not available to complete the requirements in this Schedule in a timely manner the Chairman may authorise another member of the Executive Committee to Chair proceedings and discharge the duties of the Chair as outlined in this Schedule.

Frivolous or Vexatious Complaints

2.9 At any stage of proceedings if the Chair of the Discipline and Professional Conduct Board believes that the complaint is frivolous or vexatious they may immediately call for a vote of the Discipline and Professional Conduct Board as to whether it is indeed frivolous or vexatious. This vote may be conducted in any way prescribed by the Chair, including via email.

2.10 If the Discipline and Professional Conduct Board votes by a three quarters majority that the complaint is frivolous or vexatious it shall be immediately dismissed.

Hearing of the Discipline and Professional Conduct Board

2.11 The Chair of the Discipline and Professional Conduct Board shall forward a copy of the complaint and all supporting information to the members of the Discipline and Professional Conduct Board and arrange a hearing of the Board, which shall be between 3 and 6 weeks from the date the complaint is referred. The Chair of this Board may choose a hearing time outside this timeframe if it is necessary to ensure a fair hearing, however the hearing must be conducted in a timely fashion.

2.12 The quorum for the hearing shall be two thirds of the membership of the Discipline and Professional Conduct Board. The hearing may be held by teleconference or in person.

2.13 Hearings are confidential and the evidence provided during a hearing is not published, other than that to support a published verdict (see below).

2.14 The complainant will have the option of addressing the hearing of the Discipline and Professional Conduct Board in person (where the hearing is held in person) or by teleconference for the purpose of providing further verbal evidence. If they are to address the hearing they may only be present for the portion of the hearing set aside for that purpose.

2.15 The Discipline and Professional Conduct Board may call on any witnesses or other persons to provide verbal evidence to the hearing, but has no authority to compel. Any witness may opt to provide evidence by way of a signed statement. Any witness providing verbal evidence may only be present for the portion of the hearing set aside for that purpose.

2.16 In keeping with the principles of natural justice, the member alleged to have committed the breach will have the option of being present during all verbal evidence but may not address the complainant, witnesses, or the Board at that time.

2.17 The member alleged to have committed the breach will have the option of addressing the hearing of the Discipline and Professional Conduct Board in person (where the hearing is held in person) or by Teleconference for the purpose of providing verbal evidence. The member may also choose to provide evidence in writing in advance by signed statement. The complainant may equally opt not to do either and this shall not be construed as evidence of acceptance of the allegation of breach.

2.18 The member alleged to have committed the breach may choose to be represented.

Outcome of Hearing

2.19 The Discipline and Professional Conduct Board shall deliberate in private until such time that:

- a. The Board rules by a three quarters majority that a significant breach has occurred. In this case a breach shall be found proved and the finding, along with a detailed justification for the finding, shall be referred to the Executive Committee;
- b. The Board rules by a three quarters majority that a technical breach occurred, but finds that the breach is trivial or trifling and the matter is dismissed;

- c. The Board rules by a three quarters majority that no breach has occurred and the matter is dismissed;

If the Board cannot agree by a three quarters majority that a breach has occurred and the Chair determines that further deliberation would be ineffective. The matter is therefore found to be unproved and is dismissed.

2.20 The complainant and the member shall be informed of the outcome without delay.

Penalty Imposed

2.21 In the case of a breach, the Discipline and Professional Conduct Board shall agree a penalty consistent with both the gravity of the breach and previous penalties for similar breaches from the options provided in the NZSSA Rules. A report outlining the findings and penalty shall be forwarded to the Executive Committee without delay.

2.22 In the case of a breach, the Discipline and Professional Conduct Board shall solely decide the penalty, if any, from the remedies provided in the Rules. Subject to 2.25, the penalty is not subject to appeal.

2.23 The Discipline and Professional Conduct Board shall determine whether the existence, details, finding, complainant identity, and/or penalty shall be released publicly, and no other member or participant shall release in part or full any determination or detail related to the hearing or complaint other than that which this Board chooses to release.

2.24 If the hearing uncovers significant criminal or civil wrongdoing the Executive Committee may opt to refer the matter to the NZ Police or other law enforcement agency by way of a formal complaint, or commence other legal proceedings as it sees fit.

Appealing the Determination of the Hearing

2.25 An Appeal against any finding may be made by either the Complainant or Member concerned for any of the following reasons:

- a. If further evidence that was not previously available becomes available that is materially different to any considered during the hearing and which, on balance, could change the Board's decision;
- b. If the procedure outlined in this schedule was not adhered to, and the breach is more than trivial and may have materially changed the outcome of the hearing;
- c. A member of the Discipline and Professional Conduct Board had a significant undeclared Conflict of Interest which may have impacted upon his or her impartiality.

2.26 Disagreeing with the determination or penalty shall not be grounds for appeal.

2.27 Any appeal should be made to the original Receiver within 21 days of the determination of the Discipline and Professional Conduct Board. The Receiver will initially determine whether, on the balance of probability, the appeal meets the criteria outlined in 2.25 and if so, shall formally forward the appeal to the Executive Committee.

2.28 The Executive Committee shall consider the matters raised in the appeal and determine whether the appeal shall stand. If the appeal stands the Board may modify the determination or penalty as it sees fit.

