

Antitrust Risk Management

*By Doreen Spagnuolo, Corporate Counsel and
Patrick Fife, Associate Corporate Counsel,
Long Island Board of REALTORS®, Inc.*

Antitrust laws are intended to protect competition in the marketplace. Real estate businesses are susceptible to antitrust challenges due to the nature of competition and cooperation among licensees, whereas brokers compete for property listings and also cooperate with subagents to identify buyers for those listings. This dual competition and cooperation present frequent opportunities for antitrust misconduct, causing real estate brokerage businesses to be under scrutiny for any anti-competitive conduct by governmental enforcement agencies.

Awareness to antitrust laws is important for real estate brokers today, especially since our industry is experiencing a growth of new business models. The law and the National Association of REALTORS® Code of Ethics (Code of Ethics) serve to uphold competition to allow the free flow of complete and accurate information for consumers to make informed real estate decisions. Brokers should educate their salespersons and employees on antitrust compliance, as brokers are accountable for any antitrust violation made by anyone in their office.

Antitrust principles of particular relevance to the real estate industry are conspiracies to fix prices, such as commission rates, or to fix other terms or conditions of the broker-client relationship, group boycotts, or concerted refusals to deal with another competitor or supplier.

Antitrust laws prohibit fixing commission rates. Therefore, licensees from two or more real estate firms cannot agree on a commission rate to charge consumers. That is a decision that must be made



independently by each brokerage. All licensees must take care to present pricing policies to consumers in a manner that is consistent with the fact that fees are independently established. Therefore, licensees should never say any of the following things:

- This is the rate every firm charges;
- No one in the MLS will show your house unless the commission is X; or
- You should know that XYZ brokerage is a discount broker and licensees will not show their listings.

Instead, focus on the positive aspects of doing business with you and the services you provide, such as:

- Our company has been in business Y years and has served consumers with the highest professionalism;
- We charge X commission because of the services we provide; or
- Let me show you some of our sales statistics that prove we do what we say.

Illegal price fixing can also include brokers of different firms agreeing on the commission split to be paid to compensate cooperating brokers. Brokers must

CONTINUED ON PAGE 3



President's Message

*By Susan Helsinger, President
Long Island Board of REALTORS®*

“Leadership” is a word I think of often. How do we take our members and help encourage them to become a leader in our organization?

One of the best and most productive avenues to becoming a true leader is through the Long Island Board of REALTORS® varying committees and task forces. It doesn't matter if you are just starting a real estate career or you are a seasoned real estate veteran, getting involved can be an important part of your success in pursuing a leadership role. Committee and task force work also provides you with the opportunity to share your ideas and network with industry professionals.

When I decided to seek a LIBOR leadership position, I was advised to take the “Committee Route”; with that knowledge, I joined the Legislative and RPAC committees in 1998. When the opportunity arose, I served as Vice Chair for both committees, as well as chair of the Member Services and Public Relations committees. Over the past twenty-three years I served as a member on numerous LIBOR committees and task forces, including Education, Professional Standards and Bylaws, to name a few. These positions became an invaluable experience in leadership training, as well as a well-rounded education in all aspects of our association. This prepared me as I chose to advance in LIBOR leadership positions, serving as a member of the Board of Directors and the Executive Committee, to my current role as President. I have learned that becoming a leader takes time and patience and learning through experience. Join committees, get involved with task forces, listen, learn and step up. What you learn will be invaluable both in your business profession and in life. Help shape your association to best serve you and others. The Long Island Board of REALTORS® welcomes you as you choose the “Leadership Path.”

Stay safe, stay well. Enjoy the Spring! ●

LIBOR Seeks REALTORS® Who Give Back for the 2021 REALTOR® Spirit Award



The Long Island Board of REALTORS® (LIBOR) seeks nominations for the 15th Annual REALTOR® Spirit Award, which recognizes REALTORS® who have made an extraordinary impact on their communities through volunteer work.

Each year, the REALTOR® Spirit Award celebrates the remarkable efforts made by a member, and gifts the organization through which they volunteer time and talents. One winner will receive a \$5,000 grant for their community cause and will be honored at LIBOR's Annual Installation and Awards ceremony. The recipient will also receive local and state exposure in the November/December issue of the NYS REALTOR® Magazine, and on all LIBOR communication channels.

The REALTOR® Spirit Award was launched in 2006 and has since recognized more than 50 REALTORS® for their outstanding commitment to community service.

REALTOR® Spirit Award entries must be received by September 30, 2021. For more details and a nomination form, visit www.LIRealtor.com/spiritawards. ●

REALTOR® Achievement Awards Nominations Open



LIBOR is now accepting nominations for the 2021 Annual LIBOR Awards. Take a moment to consider nominating yourself, or someone you may know that is truly deserving of receiving one of these five prestigious awards:

REALTOR®-BROKER OF THE YEAR
REALTOR®-SALESPERSON OF THE YEAR
COMMUNITY SERVICE AWARD
LIFETIME ACHIEVEMENT AWARD
REALTOR®-AFFILIATE OF THE YEAR

The deadline for nominations is July 30, 2021. Visit LIRealtor.com for more information, or to nominate yourself or a fellow REALTOR®. ●

Antitrust Risk Management

CONTINUED FROM PAGE 1

determine their cooperative compensation policies in the same unilateral and independent manner they establish commission fees to consumers. Although listing and cooperating brokers are free to negotiate the cooperating broker compensation regarding a particular transaction, that negotiation must take place before an offer to purchase has been procured by the cooperating office.

Antitrust laws also condemn agreements among competitors regarding terms and conditions of a listing agreement, such as length of the listing or marketing services to be provided. The terms and conditions of listing agreements must be independently negotiated between a listing broker and her client.

Another violation of the antitrust laws is group boycotting. A group boycott is a concerted refusal to deal with a particular party, such as if two or more real estate brokerages were to agree to refuse to cooperate with another real estate office or vendor, or to cooperate on less favorable terms, in order to force a change in that business's behavior or in an attempt to drive the company out of business. In some cases, targets of boycotts are real estate firms that offer non-traditional commission/compensation arrangements with consumers. The antitrust laws make such boycotts per se illegal. The most effective way to avoid antitrust liability is for each brokerage to unilaterally, and without consulting with any other brokerage, determine the service providers it will use and the terms and conditions of using such suppliers.

Additionally, REALTORS® are held to a higher standard under the Code of Ethics when making statements about competitors. Article 15 of the Code of Ethics states: "REALTORS® shall not knowingly or recklessly make false or misleading statements about competitors, their businesses, or their business practices". Therefore, Realtors® must be careful to ensure their statements and representations are truthful and accurate when speaking to consumers about competitors.

Antitrust violations are severe and can result in civil and criminal penalties. These penalties and ethical liability risks under the Code of Ethics will be minimized if you focus on the positive, present information honestly, and make no arrangements, whether written or verbal, with other licensees to fix commissions, fix cooperating compensation or boycott another business. ●


How Your RPAC Dollars Made A Difference In 2020!

Now more than ever, your RPAC dollars are critical for the preservation of private property rights and homeownership.


RPAC 2020 ELECTION CYCLE

Since 1969, the REALTORS® Political Action Committee has promoted the election of candidates who support NAR's public policy priorities in order to protect the tradition of private property ownership.


PARTICIPATION
Record High of **475,716** Investors
34% Participation



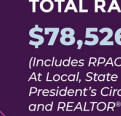
MAJOR INVESTORS
10,745 Members Invested \$1,000 or More





PRESIDENT'S CIRCLE
\$5,477,250 President's Circle Dollars individually & voluntarily contributed to candidates
1,399 President's Circle Members



FEDERAL RPAC DISBURSEMENTS
51% Democrat | **49%** Republican
The Most Bipartisan Major PAC in the Country
RPAC Disbursed Over \$4 million in Federal Races
Won 96% of Races

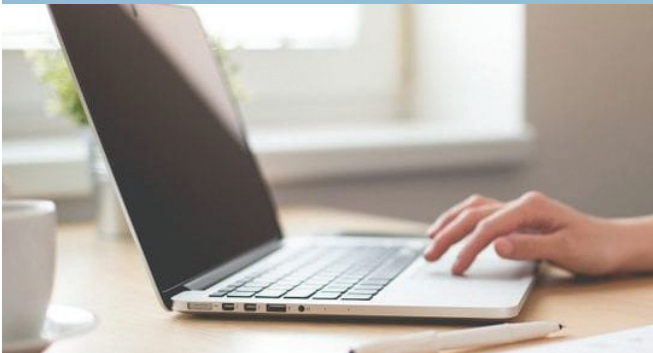


TOTAL RAISED
\$78,526,031
(Includes RPAC and PAF Funds Received At Local, State and National Levels, President's Circle, Corporate Ally Program and REALTOR® Champion Events)

If you have any questions, or would like to make an investment, contact your Government Affairs Department at govaffairs@lirealtor.com.

LIBOR EDUCATION



PSA (PRICING STRATEGY ADVISORY CERTIFICATION) (6 HOURS CE)

Enhance your skills providing clients with property pricing guidance, Creating CMA's working with appraisers and educating clients on potential misconceptions about home values.

June 1 – 2 • 9:00 – 1:00 pm

ABR (ACCREDITED BUYER REPRESENTATIVE DESIGNATION) (15 HOURS CE)

Become a proficient and profitable Buyers Representative
(Satisfies 2 Hours Agency Requirement)

May 14 – 27 • 9:00 – 1:00 pm

RSPS (RESORT & SECOND HOME PROPERTY SPECIAL CERTIFICATION) (7.5 HOURS CE) (ABR elective/GRI elective)

Learn skills to work with resort, second home or investment clients while you build your business

May 19 - 20 • 9:00 – 1:00 pm

e-PRO CERTIFICATION (12 HOURS CE) (ABR/CIPS/GRI/SRS Elective)

Discover how to connect with consumers, market property online and keep client data protected throughout the real estate transaction.

June 25 - 28 • 9:00 – 1:00 pm

2019-2021 REALTOR® MANDATORY ETHICS TRAINING

REALTORS® are required to complete ethics training of not less than 2 hours, 30 minutes of instructional time within THREE-YEAR cycles (NAR rule changed November 2019). We are currently in CYCLE 6 that covers January 1, 2019 to December 31, 2021. There are no exceptions or exemptions from this National Association of REALTORS® requirement, even if you are exempt from CE in NY. This mandatory requirement is separate from your New York Department of State Fair Housing and Agency requirements.

Go to link below to take your Ethics NOW!

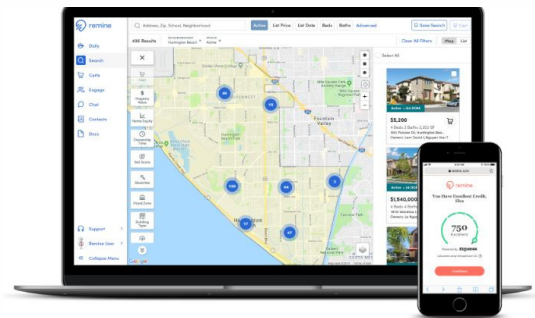
www.lirealtor.com/education/nar-code-of-ethics-training

OneKeyTM MLS

YOU'VE BEEN UPGRADED!

ONEKEY MLS SUBSCRIBERS
NOW HAVE FREE ACCESS TO
REMINE PRO

FIND YOUR NEXT LISTING WITH
REMINE'S PROSPECTING TOOLS



Visit OneKeyMLSNY.com
To Access All Your
FREE Member Benefits

 **METRO
REALTORS®**
FEDERAL CREDIT UNION



REFINANCE YOUR CAR, SUV or PICKUP:

Need Extra Cash
During COVID?
Your Car Can Help!

To learn more visit <https://www.mrfcu.com/>
or call the toll-free number at

1-833-67-METRO

to set up your appointment today!