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## Ethics

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IREM was formed in 1933 by representatives of real estate firms whose primary concern was the financial responsibility of those who were managing property for others. Each founding member firm was required to follow certain ethical standards of practice – specifically, each firm agreed to avoid commingling funds, to carry a fidelity bond for employees who handled money, and to refrain from reaping financial benefit from the use of a client's funds without full disclosure. **These same IREM principles still stand today!**

William Walters Jr., CPM, 1971 IREM President, captured the significance of ethics to IREM in his book, *The Practice of Real Estate Management*. Although the book was published by IREM in 1979, the words continue to resonate today:

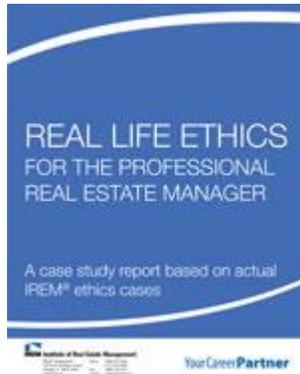
*“The final proof of a manager and the final demand on management is integrity, a moral soundness in business dealings that tests steadfastness to truth, purpose, responsibility and trust. Managers cannot compromise when it comes to demanding integrity from their superiors, their subordinates or themselves. No matter how knowledgeable or experienced the manager may be, if he lacks integrity he destroys himself, other people and in the long run his organization. He corrupts the purpose of the organization and destroys its spirit. Integrity cannot be taught or demanded, but is an absolute requisite for a professional property manager and one quality he must carry with him to the organization.”*

All members of IREM are obliged to uphold the [IREM Code of Professional Ethics](#), conducting their professional activities in accordance with the Code. In addition, AMO Firms must uphold the [AMO Code of Professional Ethics](#).

The Codes protect the public, promotes competition, reflects contemporary business practices, and sends a powerful message to the marketplace that IREM Members act ethically. IREM is one of the very few organizations that actively enforce its Code – violations are processed within a

defined structure, including an established peer review process that may result in disciplinary actions.

## Real Life Ethics



Link on this report to view actual case studies from complaints and hearings that have gone before one or more of the IREM Ethics Boards. Guidance and prevention tips are also provided for how to conduct business in an ethical manner – and in the case of IREM Members, to help avoid actions that can result in ethical complaints being filed. Finally, this case study report helps to delineate between unethical behavior and business disputes.

*(These case studies are not official interpretations of IREM's ethical standards and do not establish binding precedent. All complaints alleging violations of the Code are considered and resolved on their merits through hearings conducted by the Ethics Hearing and Discipline Board taking into consideration all of the evidence and testimony presented.)*

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## How the IREM Ethics Process Works

While many associations have codes of ethics, a study by the American Society of Association Executives (ASAE) found that only one-third fully enforce their codes. IREM is committed to ethics as one of its core values and therefore strictly enforces its Codes, providing due process for all parties from beginning to end.

Violations of an IREM Code are processed within a defined structure by an established peer review process that may result in disciplinary actions. There are three boards that independently perform specific duties in the administration of IREM's ethics program:

### Ethics Inquiry Board

The Inquiry Board performs initial review of all allegations of possible unethical or improper conduct that come to the attention of the Institute (in the form of a complaint), determines whether there is reasonable cause to believe such conduct may have occurred, and prepares and forwards complaints to hearing as may be appropriate. Because the Inquiry Board's initial determination is based solely on the information provided in the complaint, the thoroughness of the complaint documentation is critical. The Inquiry Board may:

- Forward the complaint to hearing
- Open an investigation and request additional information from either the complainant or the respondent.
- Dismiss the complaint and notify the complainant accordingly.

### Ethics Hearing and Discipline Board

The Hearing Board sets and holds hearings on matters forwarded by the Ethics Inquiry Board. If the Board finds a violation of the IREM and/or AMO Code, they will determine the appropriate action to take and summarize and publish its decisions as it deems appropriate.

A member found in violation of an IREM code may receive one of the following disciplines from the Hearing Board:

- A letter of censure – which can either be published or not published. A letter of censure does not affect the respondent's membership status.
- Suspension of membership for a period of as little as one month and as much as three years – which is always published. The respondent loses all benefits of membership during the suspension period but must stay current with dues and fees. The respondent's status is automatically reactivated at the end of the suspension period provided all conditions are met.
- Termination of membership status – which is always published. The respondent may reapply for membership after five years, with the reapplication considered on its merits and under such policies as may then be in effect.

### **Ethics Appeal Board**

The Appeal Board hears appeals to a decision by the Ethics Hearing and Discipline Board upon request. The Appeal Board may:

- Adopt the decision of the Hearing Board.
- Modify the decision of the Hearing Board.
- Reject the decision of the Hearing Board.
- Refer the case back to the Hearing Board for a rehearing.

The Appeal Board summarizes and publishes its decisions as it deems appropriate.

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### **How to File an Ethics Complaint**

IREM is a membership association and as such, we have jurisdiction only over our members' adherence to our Codes of Professional Ethics. Issues involving miscommunications, business judgment, or human error are distinguished from definable unethical behavior and are generally not within the scope of the Codes. Anywhere from 10 to 20 complaints are filed each year. Typically, one-third to one-half are moved through the full ethics process – others are found to be contractual disputes or otherwise not issues that are covered by the Code of Professional Ethics. To help you determine if an issue may be a potential violation of our Code, review [these interpretations](#).

A complaint alleging a violation of the [IREM Code of Professional Ethics](#) or the [AMO Code of Professional Ethics](#) may be filed by anyone – another IREM Member, a resident, a tenant, an employee, an employer, a client, a vendor or supplier, or a member of the public.

### **Filing a Complaint**

Here are the steps to follow in filing a complaint:

1. Determine if the individual or firm is currently a member of IREM. Follow this link to our [Membership Directory](#) and search by name or company.
2. If a member:
  - Individual Member (CPM, CPM Candidate, ARM, ACoM, Associate, Student, Academic): Review the [IREM Code of Professional Ethics](#) to determine if the individual's behavior could be in violation of the Code.
  - Firm Member (AMO): Review the [AMO Code of Professional Ethics](#) to determine if the firm's actions could be in violation of the Code.
3. If you believe that the behaviors/actions could be in violation of one of IREM's Codes, file your complaint using this [Format for Filing an Ethics Complaint](#) – all information must be provided in order for a complaint to be reviewed. Send one original copy plus one copy to:

IREM Ethics Department  
430 N. Michigan Avenue  
Chicago, IL 60611

### **When a Complaint is Received**

The individual filing the complaint is known as the "complainant", and the IREM Member against whom the complaint is filed is known as the "respondent." It is up to the complainant to show the burden of proof that an unethical violation has occurred.

Here is how a complaint is processed:

1. The complainant is sent notification that the complaint has been received and when it will be reviewed by IREM's Ethics Inquiry Board. The board meets in person two times a year (April/May and October) and periodically throughout the year via conference call.
2. The Ethics Inquiry Board reviews the complaint, which must include the articles of the IREM Code(s) that has been allegedly violation and the supporting documentation (be sure to follow the [Format for Filing an Ethics Complaint](#) very carefully), to determine whether there is reasonable cause to believe that possible unethical or improper conduct may have occurred. Because the Ethics Inquiry Board's initial determination is based solely on the information provided in the complaint, the statement of facts and supporting documentation should be as thorough as possible.
3. Decision of the Ethics Inquiry Board:
  - If the Board determines that there is reasonable cause to believe that a possible unethical or improper conduct in violation of an IREM Code may have occurred, the complaint is forwarded to the Ethics Hearing and Discipline Board for a hearing.
    - The complainant is notified that a hearing has been scheduled along with detailed information about the hearing process.
    - The respondent is notified that a complaint has been scheduled for hearing along with a copy of the complaint and all supporting documentation. The respondent is given 30 days to provide a response to the charges contained in the complaint. The complaint and response together form the basis of the hearing.

- Hearings are held twice a year in conjunction with national IREM meetings, April/May and October. Both the complainant and respondent will receive notice of the date, place, and time of the scheduled hearing. Both parties have the right to be present to testify, to provide a written statement, to be represented by legal counsel, to present evidence, and to offer testimony of witnesses.
- If the Board determines that there is not reasonable cause to believe an unethical or improper conduct in violation of an IREM Code has occurred, the complaint is dismissed. The complainant is so notified of this decision.
- In some cases, the Board may decide to open an investigation before making a final decision. In this case, either or both the complainant and respondent may be asked to provide additional information. In this case, both parties are notified of the pending decision on the complaint.

### **Questions?**

Contact IREM Headquarters at 312-329-6011 or [ethics@irem.org](mailto:ethics@irem.org).

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## **Interpretation of the IREM Code of Professional Ethics**

### **The IREM Code of Professional Ethics -- Definition and Interpretation by Article**

#### **IREM Member Pledge**

*I pledge myself to the advancement of professional real estate management through the mutual efforts of Members of the Institute of Real Estate Management and by any other proper means available to me.*

*I pledge myself to maintain the highest moral and ethical standards consistent with the objectives and higher purpose of the Institute.*

*I pledge myself to seek and maintain an equitable, honorable, and cooperative association with fellow Members of the Institute and with all others who may become a part of my business and professional life. I recognize and support the need to preserve and encourage fair and equitable practices and competition among all who are engaged in the profession of real estate management.*

*I pledge myself to place honesty, integrity, and industriousness above all else and to pursue my gainful efforts with diligent study and ongoing education so that my services shall be beneficial to the general public and my obligations to my clients shall always be maintained at the highest possible level.*

*I pledge myself to comply with the principles and declarations of the Institute of Real Estate Management as set forth in its Bylaws, Statement of Policies, and this Code of Professional Ethics.*

## **Interpretation of the Pledge**

IREM requires all members to adhere to a detailed Code of Ethics. While the Articles of the Code deal with ethics as they apply to specific business practices, the Pledge describes the core of ethical behavior which goes above and beyond complying with laws and regulations. In the Pledge, members promise to maintain high ethical and moral standards, and to act with honesty, integrity and industriousness.

The Pledge has been cited in an ethics complaint by itself or with other articles. In the last 30 years, the Pledge has been cited 39 times in complaints that have gone forward for hearing. The Pledge is most often cited with Article 10: Compliance with Laws and Regulations. Complaints of this type have included allegations of falsifying IREM applications, plagiarizing management plans, using copyrighted IREM materials, backdating lease renewals and sending inflammatory communications to a client.

### **Article 1: Loyalty to Client, Firm and/or Employer**

*A Certified Property Manager, CPM Candidate, Accredited Residential Manager, Accredited Commercial Manager, or Associate Member (hereinafter referred to as MEMBER) shall at all times exercise loyalty to the interests of the client and the employer or firm with whom the MEMBER is affiliated. A MEMBER shall be diligent in the maintenance and protection of the interests and property of the employer and of the client. A MEMBER shall not engage in any activity that could be reasonably construed as contrary to the interests of the client or employer. If an activity would result in a conflict between the interests of the firm or employer and the interests of the client, then the interests of the client shall take precedence.*

### **Interpretation of Article 1**

Loyalty to our client, firm, and/or employer is not much different than the Pledge of Allegiance to our Flag and Country. We are pledging fidelity. Article 1 of the IREM Code deals with these loyalties.

It has always been my premise that you should take care of the properties within your control as if they were your own properties. If you show genuine concern about maintaining and protecting your properties, responding to your tenant's issues promptly, and taking pride in the properties that you manage, you will find that you are being loyal to both your client and employing company.

The client expects his investment to appreciate in value and provide a decent return and your due diligence can accomplish this task and also bring recognition to your firm as a company that can be relied on to do the task at hand. Companies often lose a client because an employee ignores a problem until it gets out of proportion. John or Sally doesn't return phone calls and an issue that could have been resolved easily has now escalated out of control. Loyalty is faithfulness to duty.

People make up a company, and I have seen where one person who isn't caring about his position can destroy a company's reputation. It is so important to work as a team member and strive for perfection. If a member of the team isn't doing his or her job, it needs to be brought to their attention through the normal change of command. It is equally important to remember that you should always speak well of your client and your employer. You may not always agree with their philosophy, or may not like certain aspects of your boss or the individual's personality that represents your client, but they do deserve your respect and faithfulness. Sometimes in life you

have to put aside your own feelings and work for the good of everyone.

It is good to be proud of your firm and/or client. I was talking with a former Regional V.P. of IREM at a local meeting recently and she was so enthusiastic about bringing in her new employer as an AMO firm. We can take a lesson from this in that we should all be a cheerleader and give a “Rah! Rah! Who is better than us to talk about how great we are and to show our loyalty by expounding our company’s values and virtues.

Companies can’t exist without its clients or customers. Customers are put in our trust and are our responsibility. We all need to strive to this calling and take pride in our accomplishments as they reflect back to our Loyalty to Our Firm and Client.

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### **Article 2: Confidentiality**

*A member shall not disclose to a third party any confidential or proprietary information which would be injurious or damaging to a client concerning the client’s business or personal affairs without the client’s prior written consent, unless such disclosure is required or compelled by applicable laws and regulations.*

### **Interpretation of Article 2**

Article 2 raises the issue of disseminating information in an ethical manner. If one conveys or releases any information that is not already public, there is a risk of breaching confidentiality. If the information one intends to convey is already public, it will likely not be subject to a risk of breaching confidentiality.

On the other hand, most of what an IREM Member receives, or has available to him or her from other parties, is the result of privately conveyed discussions, papers and activities that one has had the privileged opportunity to access. It is clear from the code that there is no way that one can release the facts or any part of the information to any other party. This is so because any conveyance of information to others may give an advantage of information to others who are not party to the original relationship. That relationship is the one between the client or potential client, and the Member. The most basic duty of a relationship between the IREM Member and the client is one of trust. Frankly, the protection of the sanctity of trust is the root basis of confidentiality.

Clearly, if one has a question as to whether one should divulge any information derived from a client, the simplest procedure is to ask the client or potential client, for permission to do so. If the client decides not to grant permission, it is clear that the most straightforward acknowledgement of the code is to not divulge. This protects both shared trust and confidentiality.

An exception to the above norm is in the event that a client, or potential client, has concealed or may conceal a material matter about a property or event about a property that you would otherwise be required to divulge as a matter of law, public code or regulation. In such eventualities, the IREM Member would first be advised to counsel the client of the need to consult with appropriate experts or attorneys on the matter of the facts.

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### **Article 3: Accounting and Reporting**

*Pursuant to the terms of the management agreement, a MEMBER shall use reasonable efforts to provide accurate, auditable financial and business records and documentation concerning each asset managed for the client, which records shall be available for inspection at all reasonable times by the client. A MEMBER shall furnish to the client, at mutually agreed upon intervals, regular reports concerning the client's assets under management. A MEMBER shall not exaggerate, misrepresent, or conceal material facts concerning the client's assets or any related transaction.*

### **Interpretation of Article 3**

Article 3 deals with the specifics of the management agreement, but it also encompasses the fiduciary relationship and loyalty that a real estate manager pledges to clients, employers and firms. Interestingly, this article is most often cited with the Pledge and Article 1: Loyalty to Client, Firm and Employer.

The Ethics Hearing and Discipline Board have held 27 hearings of complaints citing violations of Article 3 since 1978. These complaints included practices like the commingling of funds, failure to keep separate records for separate beneficiaries, violating SEC rules, misappropriating client's funds for personal use and investing funds and misusing the interest. From these 27 hearings, 12 members were found guilty of violating Article 3. Six of these members' statuses were terminated and four were suspended. Two members were issued letters of censure in accordance with the Bylaws and Statement of Policies.

Of the 27 complaints citing Article 3, seven were brought against CPM Candidates. This statistic suggests the importance of mentoring candidates on how ethics impacts day-to-day management procedures.

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### **Article 4: Protection of Funds**

*A MEMBER shall at all times serve as a fiduciary for the client and shall not commingle personal or company funds with the funds of a client or use one client's funds for the benefit of another client, but shall keep the client's funds in a fiduciary account in an insured financial institution or as otherwise directed in writing by the client. A MEMBER shall at all times exert due diligence for the maintenance and protection of the client's funds against all reasonably foreseeable contingencies and losses.*

### **Interpretation of Article 4**

One of the most critical jobs a property manager performs is the handling of the client's funds. In some cases the transactions are limited to collecting rent, paying bills and disbursing the balance to the client. In other cases, it can mean holding hundreds of thousands of dollars of the client's money. In both cases, whether the property manager is dealing with one dollar or a half million dollars, the responsibility is the same.

Article 4 specifically addresses this critical function of the property manager. The Article defines the relationship as Fiduciary and this choice of terms intentionally raises the level of expectations that the client has of the property manager and the responsibilities the property manager has to the client. As a Fiduciary, the property manager must act on behalf of the client in a way that maximizes the best interests of the client. In that regard there are five ways in which a property manager can meet the obligations of their role as a Fiduciary as well as perform to the standards established by the Code.

**Understanding the Clients Goals and Objectives** – Nothing is more important than knowing the expectations of the client. When it comes to dealing with their funds a property manager must ensure that there are no actions taken by the property manager that aren't consistent with the client's instructions.

**Trust Accounting** – This requires that the client's money is always accounted for in an acceptable type of account. Strict compliance with a State's regulations as to how to manage Trust Accounts and keep accounting records will ensure that practices such as commingling of funds will not occur. At any given time the property manager must be able to demonstrate to the appropriate real estate department and the client that the funds have been properly handled.

**Institutions** – Article 4 also requires the property manager to *keep the client's funds in a fiduciary account in an insured financial institution or as otherwise directed in writing by the client*. This requirement provides for a default choice when determining what to do with the clients funds and is only changed when the client has provided specific instructions to the contrary. In every case instructions must not only be in writing but the intent should be clearly understood as well as the consequences of the choices made.

**Reporting** – It is incumbent upon the property manager to keep the client informed and up to date as to the status of the client's funds. Keeping the client apprised of the account balances as they relate to insurance limits, changing conditions at the institutions where the funds are deposited and maturity dates on investment vehicles such as CD's are examples of the property manager acting in the best interests of the client.

**Disclosure** – The expectation that the property manager is acting in the best interests of the client when it comes to handling the client's funds must always be met. Any apparent conflict of interest or real conflict of interest must be disclosed to the client. As an example, if a property manager wants to place the client's funds in a bank with which they have a very specific relationship, the client must know of that relationship even if the client would not be affected by it.

If the property manager is diligent in their understanding of their client's intent as to the handling of their funds, adheres to strict accounting requirements, uses recommended insured institutions, keeps the client informed as to the status of their funds and discloses to the client any possible conflicts of interest, then there should never be any violation of Article 4 of the Code.

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## **Article 5: Relations with Other Members of the Profession**

*A MEMBER shall not make, authorize or otherwise encourage any false or misleading comments concerning the practices of Members of the Institute of Real Estate Management. A MEMBER shall truthfully represent material facts in their professional activities. A MEMBER shall not exaggerate or misrepresent the services offered as compared with the services offered by other real estate managers. Nothing in this Code, however, shall restrict legal and reasonable business competition by and among real estate managers.*

### **Interpretation of Article 5**

One of the best pieces of advice for employees is, “don’t burn any bridges as you never know when you may need that person down the road.” This cliché aptly applies to how you conduct yourself with your peers. There can be many pitfalls that you might encounter during your years in the industry. Knowing some of these situations, and how you should react, comes from experience, training, and knowing right from wrong. Here are some examples.

John works in a real estate leasing office with you and has been working with a client for some time. The client sees a newspaper ad and comes to the office wanting to see the listed property and you take the client out as John is not in the office that day. The client buys the property. You feel you are entitled to the commission as you made the sale and “nobody owns a client.”

You notice that Susan always has a bunch of personal mail that she is putting through the stamp meter machine and you have seen her taking supplies from the office. Should you tell the office manager? This can be a difficult situation as you like Susan, yet you know it is cheating the company.

Gary, Ann’s boss, is always touching or brushing against her. He has subtly indicated that he could help her move up the ladder and would be willing to meet with her after work to help her brush up on her skills. Ann believes he wants or is suggesting more than helping her with her work. Ann is not sure how to handle the situation as she needs her job but she has no interest in Gary.

Whenever Jane eats lunch with Robyn, Robyn is always talking negatively about the black and Jewish workers in the company. Jane has observed Robyn treating one of the black workers harshly and piling on her all the work that others don’t want to do. She sees a good case for discrimination by the worker against Robyn. She isn’t certain what she should do as she wants to remain friends with Robyn and Robyn is also her superior.

Dan has an excellent offer to take a position with another company making much more money. It would be “a plum in his cap” if Dan could take some of his companies’ business with him. After all, these clients have been working with him for years and they would be much happier knowing he would still handle their accounts. Is Dan being fair to his present employer?

Most of these situations involve ethical behavior and could easily be solved by making sure the company you work for, or perhaps own, has a good employee manual which outlines expectations and policies along with frequent reinforcement and training for the

employees. Many companies now have a diversity council and frequent training and role playing so employees understand discrimination, improper behavior in the workplace, stealing, accepting gifts, and employment policies. Many companies likewise have their employees sign a contract which discusses taking a client when someone leaves the company, or how commissions are handled. If the company has a Human Resource Department, the employee should be made comfortable knowing they can go to this department, or to their boss, to discuss any situation without repercussions.

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### **Article 6: Contracts**

*Any written contract between a MEMBER and a client shall be in clear and understandable terms, and shall set forth the specific terms agreed upon between the parties, including a general description of the services to be provided by and the responsibilities of the MEMBER.*

### **Interpretation of Article 6**

Just like the language in a well written contract, the language in Article 6 is very clear and understandable. But what is clear and understandable to one party, may not be clear and understandable to the other party. Disputes over the language in contracts arise all the time, despite the best intentions of the parties when drafting the language. When negotiating contracts, the wise property manager will be aware of how contract language could be misunderstood by others and will endeavor to eliminate vague or unclear language.

Most contract disputes are legal issues, rather than ethics issues. IREM does not intercede in contractual disputes. Violations of Article 6 are rarely cited separately, but are most often cited in combination with violations of other Articles of the Code. When there is an issue between an owner and a property manager, the parties will often refer to the property management contract to determine what the contract language states. If the issue is severe enough to result in one party claiming that an ethics violation has occurred, and the management contract is not sufficiently clear and understandable, a possible violation of Article 6 may have occurred in addition to possible violations of other Articles.

An actual complaint, brought before the Ethics Hearing Board, involved a property manager who was commingling multiple clients' funds into a single interest-bearing account and then crediting the interest earned to the management company. The property manager argued that had the accounts been kept separately, none of them on their own would have been large enough to earn interest, and therefore the management company should be entitled to the interest. The Ethics Hearing Board ruled that a violation of Article 1, Fiduciary Obligation to Clients and Article 3, Accounting and Reporting had also occurred.

Basically, the language in a property management contract should spell out, in sufficient detail, the full understanding between the property management company and the owner. That way, the property management company can rest assured that its rights, duties and obligations under the property management contract are fully understood by the owner and that, as long as the property management company's actions are consistent with the contract language, any issue or

misunderstanding can be readily resolved by simply referring to the management contract.

Of course, contract disputes are not limited to just property management contracts. The wise property manager will endeavor to make sure that any contract that the property manager signs is clear, understandable, and provides a sufficiently detailed description of the property management company's services and responsibilities.

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### **Article 7: Conflict of Interest**

*A Member shall not represent personal or business interests divergent from or conflicting with those of the client or employer and shall not accept, directly or indirectly, any rebate, fee, commission, discount, or other benefit, monetary or otherwise, which could reasonably be seen as a conflict with the interests of the client, employer or firm, unless the client or employer is first notified in writing of the activity or potential conflict of interest, and consents in writing to such representation.*

### **Interpretation of Article 7**

There are a great number of business situations that violate or come close to violating Article 7. Here are two examples that present situations that may be considered conflicts of interest:

**Example 1:** You are a CPM candidate; you work for a medium-size management company where you directly supervise two other property management supervisors. The company has three roving maintenance persons who have been instructed to buy equipment at the local Ace Hardware run by your uncle. There is a 20 percent discount on any items sold to the company-managed properties. Your uncle gives you a monthly check based on a percent of sales to your company.

**Example 2:** You are a CPM and work for an AMO firm. A large high-rise condominium you manage has just completed a \$1.5 million renovation. The general contractor for the job has sent you two 50-yard line tickets to a major football game in your area. You note the printed price on the tickets is \$150 each.

Have you violated Article 7 in one of the two examples above? Perhaps. If we only read the first part of the Article, these examples are clear violations. But in the second part, there is a passage that reads, "unless the client or employer is first notified in writing." The Article does not say you cannot have other businesses or interests; however, if those businesses or interests provide any kind of benefit --monetary or otherwise -- they must be divulged.

The best solution, of course, is to not get involved in any activity providing services or goods to your management clients. In reviewing the Article and the decisions of the Ethics and Discipline Committee, it would appear that if the relationship in example 1 was divulged in *writing* and approved by the client, there would be no violation. In example 2 the management company should have a *written policy* on gifts to all employees, including company executives. Many government agencies and companies have a policy that employees cannot accept a cup of coffee from a person with whom they are transacting business. While that may seem a bit extreme, it's always best to review what is being done in your market place and have a policy in place before

there is any question regarding what presents a conflict of interest or not.

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### **Article 8: Managing the Assets of a Client**

*A MEMBER shall exercise due diligence in the maintenance and management of the client's assets and shall make all reasonable efforts to protect it against all reasonably foreseeable contingencies and losses.*

### **Interpretation of Article 8**

The current recession has become a sensitive issue for many clients and tenants. When it comes to handling their money or assets, what is reasonable has climbed to new heights. Clients and tenants often expect more than due diligence from property managers; they expect perfection. This perception makes it vital that you match up the client's vision of what we do, to what we actually do. There are three methods of accomplishing this:

**Share Management Practices.** First, hold regular meetings with clients to describe and identify the property management practices in place that protect the client's assets. Offer this information as part of a routine client agenda in small bites so it is a continuous exercise. Topics should include banking and cash management, segregation of funds, loss-prevention management, security controls and the long list of other major systems and procedures in place. Make sure you give plenty of opportunity for the client to ask questions and offer suggestions regarding your management practices. By affording the fullest opportunity for the client to learn what we do, and why we do things a certain way, you can give clients a "street level" view of our business. These meetings will also allow for an exchange of ideas on possible improvements.

**State of the Asset Meeting.** This method of educating the client is often tied to the annual budget, marketing or capital planning meeting for an asset. During this meeting, your systems, procedures and controls should be woven in to the presentation when they are relevant to the topic. The purpose is to elevate transparency, to enhance the discussion by providing the means and methods of execution by the manager, and to produce meaningful exchanges. Often, "state of the asset" meetings are strategic in nature. This does not mean practical policies, procedures and systems should be downplayed. Rather, this is precisely the venue to point out and discuss how your duties are executed.

**Policy and Procedure Updates.** Despite their importance, many clients and owners may show little interest in your asset/property management policies, systems and procedures. Most want a copy of the policy book on DVD or to download, but often this is a checklist item that ends up in a file somewhere. It is never read until something goes awry. A way to overcome this disinterest is to engage the client each time there is a policy or procedure update. The client will be educated over an extended period of time, while you highlight the importance of the procedure and its update. This communication will help the client buy in to your efforts to protect foreseeable assets.

Managing clients' assets well in today's economy requires more than just a nuts and bolts approach. Communicating through a clear and open framework that explains policy and systems, and invites discussion, can produce an excellent avenue to jointly understand due diligence and

what is reasonable.

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### **Article 9: Duty to Former Clients and Former Firms or Employers**

*All obligations and duties of a MEMBER to clients, firms, and employers as specified in this Code shall also apply to relationships with former clients and former firms and employers. A MEMBER shall act in a professional manner when, for whatever reason, relationships are terminated between a MEMBER and a client and firm or employer. Nothing in this section, however, shall be construed to cause a MEMBER to breach obligations and duties to current clients and firm or employer.*

### **Interpretation of Article #9**

Never burn a bridge in life as you never know when you might need that bridge again. Or where a person or opportunity might turn up in the future. In the world of real estate management, tenants, clients, and employers may come and go, sometimes multiple times throughout the rest of our lives, in a variety of roles. Who hasn't found themselves employed by a former tenant, or a client, or even an employee later in life, especially if living and working in a small community.

A property manager is privy to financial and other confidential information concerning properties and clients that should not be divulged, especially when the manager ceases to work with the property. A CPM Member (CPM) has a professional duty to exercise due caution in not divulging information that could have negative impact on the property or its owners. An example would be the sharing of information that could not be obtained publicly. Lease terms, such as expiration dates and rental rates of commercial tenants, could enable unethical solicitation of business with a competing property, giving unfair advantage that might cause the former client's building to lose rental revenue and other hardship.

A CPM also has a duty to companies or employers for whom that person has worked. It is a violation to use confidential information in a subsequent business situation to unfair advantage. A CPM pledges not to unethically solicit customers or clients. If a property manager has signed a non-compete agreement with an employer, he is bound to the terms of that agreement for whatever time period and terms are stated as to performing like services in a business setting for himself or another client.

In the absence of a non-compete agreement, or once it has expired, a CPM may make his services known to the public, including former clients, if done in a professional manner and not using information that isn't available from public sources. At no time may a CPM solicit business away from his current employer while still employed and an agent of that company. It would be unethical, for example, for a CPM to solicit a current client while the CPM is still employed. If a current client learned that the CPM was leaving and asked to follow, it is the CPM member's obligation to inform the client that it would be inappropriate to discuss until (a) after the last day of employment, or (b) at the end of any employment contract in place that includes non-compete provisions.

A client may choose to follow a CPM to his new place of business at the expiration or within the

terms of any current contract(s) in place at that time. Nothing restricts a CPM from enjoying free trade and normal healthy competition for customers. It is not unusual for a competent CPM to eventually enjoy continuance of his client relationships that develop throughout his career. Always follow the proper protocol of maintaining loyalty and any employment contract terms, written or verbal, throughout a business relationship, and beyond, relative to confidentiality and professionalism.

If harsh words are part of the exit process, it will be beneficial to forgive and forget. Bridges are expensive, and often difficult to rebuild. Therefore, under the Code of Ethics, a CPM is directed to protect that infrastructure, regardless of the controversy or personality conflicts that may take place along the way. The world would be a better place if everyone lived by this philosophy.

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### **Article 10: Compliance with Laws and Regulations**

*A MEMBER shall at all times conduct business and personal activities with knowledge of and in compliance with all applicable laws and regulations.*

#### **Interpretation of Article 10**

The most frequently violated article of the IREM Code of Professional Ethics is Article 10: Compliance with Laws and Regulations. In the last 30 years, Article 10 has been cited 67 times in complaints that have gone forward for hearing. Violations of Article 10 have included fraud, embezzlement, kickbacks, filing a false tax return and sexual harassment. However, the most often cited complaints arise from security deposit disputes. To avoid being a party to such a complaint, handle and document security deposits correctly, and know the local and state laws governing such transactions.

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### **Article 11: Equal Opportunity**

*A MEMBER shall not deny equal employment opportunity or equal professional services to any person for reasons of race, color, religion, sex, familial status, national origin, age, sexual orientation, gender identity, or handicap and shall comply with all applicable laws and regulations regarding equal opportunity.*

#### **Interpretation of Article 11**

IREM members should treat all individuals (clients, tenant, vendor, employees, etc.) that they come in contact with in a similar manner. A member's or a client's personal beliefs or prejudices should have no bearing on any interactions or decisions made. A member should deal with all individuals they come in contact with in a similar, fair and non-prejudicial manner.

There was a recent situation where an on-site residential manager referred to her male maintenance employees as "boy." When this behavior was brought to the on-site manager's attention, she failed to change her behavior and was ultimately terminated. Failure to quickly address this situation could have resulted in disciplinary action by IREM.

There have been other instances of alleged failure by Members to comply with the Equal Opportunity portion of IREM's Code of Ethics. They include a situation where a residential manager was terminated by a CPM. The residential manager accused the CPM of racial discrimination and terminating a manager for refusing to discriminate. The CPM provided evidence that the residential complex was not discriminatory, demonstrating that the two applicants in question were rejected on valid grounds and that the employee was fired for poor performance.

Another example is where an AMO firm was issued a letter of censure for racial discrimination in violation of Article 11. The AMO firm demonstrated mitigating circumstances and remedied the problem with a comprehensive education program.

On the practical side, integrating Equal Opportunity into a Member's everyday life, both work and personal, makes a lot of sense. Our business world is comprised of many different people from all walks of life and from all over the world. Our lives are greatly enriched by interacting with these many different individuals, often broadening our horizons. By excluding somebody from participating in your business as a client, tenant, vendor or employee will greatly lessen the pool of talent that a Member could have the honor of working with.

In short, it makes good business sense to at all times conform to the IREM Code of Ethics and treat everybody in an equal opportunity manner at all times.

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### **Article 12: Duty to Tenants and Others**

*A Member shall competently manage the property of the client with due regard for the rights, responsibilities and benefits of the tenants or residents and others lawfully on the property. A Member shall not engage in any conduct that is in conscious disregard for the safety and health of those persons lawfully on the premises of the client's property.*

### **Interpretation of Article 12**

Since 1978, 11 complaints have been forwarded to the Ethics Hearing and Discipline Board citing violations of Article 12: Duty to Tenants and Others.

The IREM Ethics Hearing and Discipline Board found a CPM in violation of Article 12 and Article 10 (compliance with laws) when it was determined leasing agents had not followed company policies in disclosing lead-based paint in pre-1978 apartment buildings. Because the company was an AMO firm, violations of the AMO code were found as well. The Hearing Board concluded the member had a legal and an ethical duty to tenants. In addition, an AMO firm is responsible for the conduct of its employees and others over whom it has supervision or control.

Another type of violation of Article 12 can occur when a CPM fails to educate owners about the requirements of ethical real estate management. In a past complaint citing issues of safety, the Hearing Board found that a CPM Member's response to a complaining tenant did not address the serious problems raised by the tenant. The board further found that the CPM showed no evidence of having informed the owner of the property of safe housing issues that should have been resolved before tenancy. The CPM appealed the decision of the Hearing Board but the Appeal

Board upheld the Hearing Board's decision.

No matter what kind of property is being managed, it is the duty of a member to educate the property owner on providing safe housing for tenants. As is taught in the IREM ethics course (ETH800), sometimes a member must make the decision not to manage for owners who make it impossible to follow the IREM Code of Ethics.

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### **Article 13: Duty to Report Violations**

*Each MEMBER has a responsibility to provide the Institute of Real Estate Management with any significant factual information that reasonably suggests that another MEMBER may have violated this Code of Professional Ethics. Such information must be presented as outlined in the Institute of Real Estate Management's Bylaws and Statement of Policies.*

### **Interpretation of Article 13**

A new requirement, titled "Duty to Report Violations" (Article 13), appears in the revised IREM Code of Professional Ethics. Research conducted by the Ethics and Discipline Committee found that other real estate and related organizations include similar requirements in their codes. While such ethical behavior was inherent in the previous IREM Codes, today's business conditions make it imperative to specifically spell out the Institute's expectations of all its members. The "Duty to Report Violations" requirement went into effect Jan. 1, 2007.

### **Article 14: Enforcement**

*The interpretation of compliance with this Code is the responsibility of the Ethics and Discipline Committee of the Institute of Real Estate Management. Any violation by a MEMBER of the obligations of this Code and any disciplinary action for violation of any portion of this Code shall be determined and carried out in accordance with and pursuant to the terms of the Bylaws and Statement of Policies of the Institute of Real Estate Management. The result of such disciplinary action shall be final and binding upon the affected MEMBER and without recourse to the Institute, its officers, Governing Councillors, Members, employees, or agents.*

### **Interpretation of Article 14**

This article explains that enforcement is an integral part of the IREM Code of Professional Ethics. The IREM Ethics program is described in the Bylaws and Statement of Policies of the Institute. While many associations have a code of conduct, IREM is one of the few to strictly and consistently enforce their code.