

Procedural Rules for the Ethics Committee

of

ACA International

The Association of Credit and Collection Professionals

as amended May 4, 2010



ACATM

INTERNATIONAL

The Association of Credit
and Collection Professionals

RULE 1. PREAMBLE

It is of primary importance to the public and to the Members of ACA International (herein after referred to as “the Association” or “ACA”) that cases of Members’ alleged unethical conduct be promptly investigated and dealt with fairly and justly. Having in mind the interest of the public, the Member complained of, the complaining entity or person (hereinafter “Complainant”) and the credit, collection and debt purchasing industry as a whole, disciplinary investigations and proceedings shall be conducted in accordance with the Procedural Rules for the ACA International Ethics Committee (referred to herein as “Rules”) and shall be promulgated as a mechanism to enforce ACA International’s Code of Ethics and Code of Operations (collectively referred to as the “Code” or “Code of Ethics”).

RULE 2. BINDING EFFECT, STANDARD OF REVIEW AND DUE PROCESS

2.01 Binding Effect

Members shall be bound by these Rules including any requirements of the Association’s **Third Party Consumer Dispute Resolution Administrator (hereinafter referred to as TPA)**¹ in all matters involving Written Complaints against Association Members.

2.02 Official Notice

Official notice of the ACA Code of Ethics and Code of Operations, these Rules and the requirements of the Association’s TPA, if any, shall be made available on the public pages of the Association’s Web site as amended from time to time. Members may also obtain such information through the Association’s Fastfax system.

Each Member shall agree to submit to these Rules and their binding effect as a condition of membership on the Association’s Application for Membership Form and annually on the Association’s Membership Renewal Form.

2.03 Standard of Review and Due Process

These Rules seek to provide parties to any complaint or investigation with due process and considers the representations of the parties to be true unless facts, circumstances, practices or documentation suggest otherwise. The Ethics Committee will use its best efforts to interpret the representations of the parties, facts, circumstances, practices and documentation in a fair and equitable manner.

RULE 3. ETHICS COMMITTEE

3.01 Composition of Committee

The Ethics Committee shall consist of not less than five (5) nor more than ten (10) individuals, who shall be natural persons:

- (A) A Chairperson (hereinafter called “Chair”) nominated by the President-Elect of the Association and appointed by the Association’s Executive Committee for a two (2) year term. To qualify as a candidate for the Chair position, such person must have served at least one year on the Ethics Committee. The Chair shall not concurrently serve as an officer of the Association or as a member of the Executive Committee while serving as Chair of the Ethics Committee. The Chair is a non-voting member of the Committee, except for purposes of breaking a tie vote.
- (B) Four to nine Association Members, depending on the needs of the Committee, preferably from varied Association divisions, including at least one participant in the Asset Buyers Division, shall be nominated by the President-Elect of the Association and appointed by the Association’s Executive Committee. These

¹ See Addendum A

individuals shall not concurrently serve as officers of the Association or as members of the Executive Committee while serving as members of the Ethics Committee.

- (C) Individuals nominated and elected to the Ethics Committee shall each serve for three-year terms for a period not to exceed six (6) consecutive years.

3.02 Committee Responsibilities

The Ethics Committee shall:

- (A) Carry out the duties set forth in these Procedural Rules for the Ethics Committee;
- (B) Enforce the Code,
- (C) Implement policies and procedures deemed necessary by the Ethics Committee and the Executive Committee to function fairly and effectively as a self-governing body of the Association;
- (D) Disclose any actual or potential conflicts of interests including any matters or interests, including monetary interests, which may be perceived as presenting or which may present a conflict of interest regarding that person's role as a member of this committee. Such disclosure shall be made at the Committee member's earliest opportunity. Individual members of this Committee having disclosed a conflict of interest or potential conflict of interest as described above, must recuse him or herself from any discussion, consideration or voting on any and all issues that may impact such Committee member's interest as determined by the Ethics Committee of this Association.
- (E) Sign a conflict of interest disclosure statement and a confidentiality agreement as a condition of service on the Ethics Committee;
- (F) Make recommendations to the Executive Committee regarding amendments or updates to these Rules or the Code as changing circumstances, trends or industry priorities may dictate; and
- (G) Have the right to initiate a Complaint against a Member if such Complaint is approved by a majority of the Ethics Committee.

RULE 4. LEGAL COUNSEL

It shall be the function and responsibility of the Association's General Counsel to designate an Association attorney to serve as legal advisor to the Ethics Committee (herein after referred to as Legal Counsel) having no right to vote. In this capacity the Legal Counsel shall carry out such duties and responsibilities as set forth herein, provide legal advice to the Committee and serve as a staff liaison to the Committee.

RULE 5. CONFIDENTIALITY, PERMITTED DISCLOSURE, ATTORNEY CLIENT PRIVILEGE AND IMMUNITY

5.01 Confidentiality

Unless otherwise expressly permitted by these Rules, all information including, but not limited to, any Written Complaint, charge, statement, writing, allegation, investigatory information, documentation made in connection with or arising from a proceeding involving these Rules, the Code or the actions or rules of any TPA retained by or connected with the Association to process consumer initiated disputes or complaints is privileged and confidential. Such information may be used to the extent necessary by the Ethics Committee, the TPA or ACA to process Written Complaints or perform responsibilities and duties in accordance with these Rules.

5.02 Permitted Disclosures

Results of a final determination, including the basis for any sanction imposed or resolution reached by the Ethics Committee or TPA, if applicable, may be shared with ACA's Membership Department, the ACA Membership Board of Review or the President/Membership Committee of an ACA Unit for the limited purpose of reviewing Membership Applications or the membership status of a Member.

As a condition of receiving the results of a final determination, including the basis for any sanction, determination or outcome imposed or reached by the Ethics Committee or TPA, as applicable, the parties or individuals referenced above must first sign a confidentiality agreement prepared by Legal Counsel.

ACA can share membership information with the TPA for investigation purposes as outlined in these Rules.

5.03 Attorney Client Privilege

Communications between the Ethics Committee and its Legal Counsel and communications among members of the Ethics Committee related to any matter subject to the jurisdiction of the Ethics Committee shall be accorded attorney-client privilege consistent with applicable laws and practices.

5.04 Immunity

Ethics Committee members, the Executive Committee members, Association employees, and Legal Counsel shall be indemnified and held harmless by the Association for any such conduct, act or omission performed in the course of or arising out of their performance of their official duties unless such conduct is in intentional or in reckless disregard of these Rules. This Immunity does not extend to units or unit officers for any reason.

RULE 6. DISCIPLINARY ACTION – JURISDICTION

6.01 Members

Matters involving an applicant's or Member's eligibility for membership shall be handled by the Association's Membership Board of Review.

The Ethics Committee has primary jurisdiction over Member to Member Written Complaints, client to Member Written Complaints, Written Complaints concerning commercial matters and Written Complaints initiated by any other party, individual or entity, other than a consumer.

If ACA has retained or associated with a TPA to process consumer Written Complaints, the TPA shall have primary jurisdiction over such complaints. Accordingly, if ACA receives a Written Complaint from a consumer or an inquiry about the process a consumer may follow to file a Written Complaint, ACA shall forward such complaint or inquiry to the TPA. If ACA has not retained or associated with a TPA, the Ethics Committee will process Written Complaints submitted by consumers in accordance with these Rules.

6.02 Non-Members

The Ethics Committee does not have jurisdiction to render disciplinary action over the acts or omissions of a non-member of the Association. However, upon receipt of a Written Complaint about the acts or omissions of a non-member of the Association alleging or otherwise establishing a basis for a complaint under ACA's Code if such non-member was otherwise a member of ACA, the Ethics Committee shall:

- (A) In the case of a consumer initiated Written Complaint, forward the matter to the TPA, if any; and
- (B) In all other situations:
 - i. notify the non-member ACA has received a Written Complaint involving the non-member organization or individual;
 - ii. explain the Written Complaint is being forwarded to the non-member's attention to provide the non-member with the opportunity to resolve the Written Complaint or take other appropriate corrective action and to submit a written report to the Ethics Committee on the outcome of the non-member's efforts to resolve the Written Complaint or take other appropriate corrective action, all to be completed within 45 days of the date the Ethics Committee provides notice thereof; and
 - iii. upon the failure of the non-member to resolve the Written Complaint or take other appropriate corrective action, refer the Written Complaint to the Federal Trade Commission.

RULE 7. COMPLAINT PROCESS

7.01 Process, Investigation and Disposition

Unless otherwise subject to the complaint resolution procedures of any TPA retained or associated with ACA as provided in these Rules, all Written Complaints involving a Member's alleged violation(s) of the Code shall be processed, investigated and disposed of in accordance with these Rules. If ACA does not retain or associate with a TPA to handle consumer initiated complaints, all Written Complaints, including those initiated by consumers, will be handled in accordance with these Rules.

7.02 Initiating the Complaint Process

Complaints against any Member of the Association shall be set forth in writing on an Official Complaint Form. To initiate the Complaint process, the Complainant must submit a Written Complaint, along with all supporting documents, to ACA.

- (A) If by mail send to the Ethics Committee of ACA International, c/o Legal Counsel, P.O. Box 390106, Minneapolis, MN 55439-0106.
- (B) If by email send to ethics@acainternational.org.
- (C) If utilizing ACA's online Complaint Form, the Complainant must either upload all supporting documents to the Written Complaint before submitting such complaint or must mail supporting documents within ten (10) calendar days.

Upon receipt thereof, the Legal Counsel shall initiate the Complaint resolution process as detailed herein.

7.03 Notification of Complaint to Complainee-Member

The Legal Counsel shall send one copy of the Written Complaint to the Member's contact person, as identified in accordance with the Code, against whom the Written Complaint has been made (herein after "Complainee-Member"). The Complainee-Member shall be allowed thirty (30) calendar days from its date of receipt of the letter in which to inform the Ethics Committee, in writing, how the Complaint was resolved. If within the thirty (30) day period the Complainee-Member has either taken no action or has not communicated to the Legal Counsel what action was taken, the Written Complaint will be accepted for investigation and begin the Ethics process detailed herein.

If the Complainee-Member is unable to resolve the Written Complaint, Complainee-Member shall, within thirty (30) calendar days from its date of receipt of the letter from ACA, inform the Legal Counsel of what actions were taken in an attempt to resolve the complaint. ACA's Legal Counsel will then review the actions of the Complainee-Member and either accept the Written Complaint for further investigation detailed herein, or will dismiss the complaint and follow the procedures detailed in Rule 9.05.

7.04 TPA Consumer Complaints

The TPA will have the discretion to forward a matter to the Ethics Committee for further investigation and action based on these relevant factors:

- (A) The size of agency
- (B) The frequency and persistence of noncompliance within the past six years
- (C) The nature of such noncompliance
- (D) The extent to which such noncompliance was intentional
- (E) Lack of response from Member
- (F) Non resolution of the Complaint

Complaints returned to the Ethics Committee for investigation shall be handled in accordance with these Rules.

7.05 Unresolved Written Complaints

Any Written Complaint that is not resolved per Rule 7.03, and/or is subsequently accepted for further investigation by the Legal Counsel, shall be sent to the Complainee-Member. The Complainee-Member shall then be allowed ten (10) business days to file an Answer to the Complaint. Answers to any Complaints may be set forth on Official **Answer to a Complaint** forms. However, a timely communication from the Complainee which is clearly in response to the request for an **Answer to a Complaint** and which substantially complies with the Committee's request for an Answer, may be deemed to fulfill the formal requirements of the Complainee's Answer to a Complaint.

7.06 Communication with Members

All communication regarding the complaint process will be sent to the Complainee-Member's designated contact person as provided for in the Code. If no such contact person is named, the communication will be sent to the main company contact in the principle office named in ACA's Membership Application or Membership Renewal Form.

7.07 Extension of Time to File Answer

Upon written request furnished to ACA's Legal Counsel prior to the expiration of the filing deadline, a Complainant or Complainee shall be granted an additional ten calendar days to file an **Answer to a Complaint** or a **Reply to an Answer**. Further extensions may be granted upon written request for good cause, the adequacy of which shall be determined at the discretion of ACA's Legal Counsel.

7.08 Presumption of Admission

If within ten (10) business days after proper delivery of the Written Complaint as detailed in Rule 7.05, and any supporting documents to the Complainee-Member, the Legal Counsel does not receive an Answer to the Complaint from the Complainee-Member as required by these Rules, the allegations in the Written Complaint will be deemed to be admitted for purposes of these proceedings only, and forwarded to the Committee for Disposition of the matter and proper notification of the parties.

7.09 *Right to Withdraw*

A Complaint may be withdrawn by the Complainant at any time by written request to the Ethics Committee or Legal Counsel.

RULE 8. OPPORTUNITY TO REPLY

8.01 *By Complainant*

Upon receipt of the Complainee's ***Answer to a Complaint***, timely filed with the Legal Counsel, the Legal Counsel shall provide the Complainant with an opportunity to respond to the Complainee-Member's Answer to the Complaint within ten (10) business days of the receipt thereof. A timely communication from the Complainant which is clearly in response to the request for a ***Reply to an Answer*** and which substantially complies with the Committee's request for a Reply, may be deemed to be appropriately responsive.

8.02 *Return of Reply
from Complainant*

If the Complainant's ***Reply to an Answer*** is received within the ten (10) business day period and the Reply reflects complete or partial satisfaction with the Answer, the Legal Counsel may provide Notice to the parties that this matter appears to be resolved and that no further action will be taken. If the Complainant's ***Reply to an Answer*** does not reflect complete or partial satisfaction, the Complaint may be accepted for investigation by the Ethics Committee.

8.03 *Non-Response of
Complainant to
Complainee's Answer*

If Complainant fails to respond within the ten (10) business day period, the Complaint will be deemed dismissed as incomplete with no further action required.

8.04 *Acceptance of Complaint
for Investigation by
Ethics Committee*

Notice shall be sent to all parties of record to a Written Complaint, that such Complaint has been accepted for investigation to the Ethics Committee. Such Notice shall state when the matter is scheduled to be heard.

RULE 9. PROCESSING OF COMPLAINTS

9.01 *Formal complaints*

Written Complaints that have been answered by the Complainee and replied to by the Complainant shall be accepted or rejected for investigation by the Legal Counsel or the Ethics Committee pursuant to these Rules. When making a determination whether to accept or reject a matter for investigation statements and assertions made by the parties shall be considered true unless otherwise refuted by the evidence.

9.02 *Discretion of Committee to
Reject Complaint After
Acceptance*

If a Written Complaint, submitted to the Ethics Committee, pursuant to these Rules and has been accepted for Investigation the following inquiries shall be made:

- (A) Whether either party or any third party has, or intends to, bring a civil or administrative action?
- (B) Whether, the Written Complaint arises as a part of a written contractual obligation between the parties and such obligation contains an express agreement to arbitrate any disputes or to utilize Alternative Dispute Resolution as the exclusive or chief method of resolution?
- (C) Whether it reasonably appears the Written Complaint lacks merit or does not rise to the level of a Code violation?

If the investigation indicates any of the above is true, the Ethics Committee has the discretion to reject the Written Complaint and close the file. Such a rejection does not indicate approval or disapproval of the Complaint or the allegations contained therein.

*9.03 Mandatory Rejection
of Written Complaints*

The Legal Counsel shall not accept, and the Ethics Committee shall not take action on any matter of alleged violation of the Code if the Written Complaint indicates that it involves:

- (A) A current or former employment relationship between or among any of the parties,
- (B) Product liability, warranty or a related subject,
- (C) Any advertising by a Member, unless such advertising is alleged to have caused injury to a consumer in a Written Complaint initiated by a consumer or portrays the industry or another Member in a manner insulting to consumers or otherwise contrary to public policy,
- (D) A matter which is believed to be in litigation, or may be litigated imminently.

*9.04 Lack of Jurisdiction or
Failure to State a Claim*

Notwithstanding any other provision under these Rules, Legal Counsel or the Ethics Committee may reject a Written Complaint if the complaint is such that (1) the Committee lacks jurisdiction over the subject matter of the complaint, or (2) the Committee lacks jurisdiction over the person or entity complained of, or (3) the complaint fails to state a claim upon which relief can be granted. The decision to reject a complaint under this Rule may be appealed pursuant to Rule 18.

*9.05 Notification of Dismissal of
Written Complaint*

Upon dismissal of a Written Complaint in accordance with Rule 9.04, Legal Counsel shall notify the Complainee that such complaint was brought against them within thirty (30) calendar days of such Written Complaint being dismissed.

RULE 10. INVESTIGATION

Upon receipt of a Written Complaint accepted for Investigation, the Chair shall, within ninety (90) calendar days, conduct or direct any such investigation as the Chair deems appropriate to determine the truth or falsity of the allegations contained in the Written Complaint. The Chair shall direct Committee members to conduct any such investigation. Those individuals so directed to investigate shall solicit relevant information from any person including, but not limited to, the Complainant, the Complainee-Member, their agents or assigns, or any other person reasonably believed to possess any information concerning the alleged violation of the Code by the Complainee-Member and the circumstances surrounding such conduct which relates to the allegations in the Written Complaint.

The individual so directed by the Chair to investigate and solicit all relevant information regarding the Written Complaint, shall submit all information received regarding the investigation to ACA's Legal Counsel. ACA may from time to time prescribe or recommend a format to allow Committee members to have a standardized means for summarizing investigative efforts.

RULE 11. REQUIRED COOPERATION OF MEMBER; GROUNDS FOR DISCIPLINE

11.01 Duty To Cooperate

It shall be the duty of any Member who is the subject of an investigation or proceeding under these Rules or the requirements of the Association's TPA, to cooperate with the Complainant, the Committee, the Executive Committee, Complaint Investigators, the Legal Counsel and/or the TPA representatives, by complying with reasonable requests

for documentation, information and material which is relevant and helpful to the investigation of the matter during the term of a Complaint proceedings. Such requests shall not be disproportionate to the gravity and complexity of the alleged Code violation(s). Accurate copies of documents shall be permitted in lieu of the originals in all proceedings under the Rules. These requests may include, but need not be limited to, requests to:

- (A) Promptly furnish designated papers and documents, electronic transcriptions or tangible objects;
- (B) Promptly furnish in writing a full and complete explanation covering the matter under consideration;
- (C) Appear, attend, or participate at conferences at times and places reasonably designated;
- (D) Adhere to the methods of communication set forth herein; and
- (E) Promptly furnish materials requested as per the details in Addendum A.

It shall be the responsibility of all Members to refrain from taking retaliatory action against a Complainant and/or from seeking in any way to coerce a Complainant into waiving his, her or its right to file a Written Complaint with the Ethics Committee.

11.02 Grounds for Discipline

Violation of Rule 11.01 of these Rules shall be deemed a violation of this Code per se and shall constitute a ground for discipline; provided, however, that a Member's challenge to requests made in connection with proceedings under the Rules shall not constitute lack of cooperation if the challenge is promptly made in good faith, and is asserted for a substantial purpose other than delay.

RULE 12. DISPOSITION OF THE COMPLAINT OR ADMISSION

12.01 Process of Disposition

The Ethics Committee shall meet and enter a Disposition of any Written Complaint accepted for Investigation under these Rules or which has been admitted in whole or in part by a Complainee-Member.

12.02 Disposition Notice and Sanctions

The Committee shall meet for the purpose of rendering a disposition of the Written Complaint at the completion of the investigation. This meeting may be conducted in person, by teleconference, or by audio-visual conference. It is within the sole discretion of the Chair to invite testimony from any party to the Written Complaint or their legal representative(s) during this meeting.

12.03 Notice of Disposition

Within thirty (30) calendar days of the date of the meeting described in Rule 12.02 above, Legal Counsel shall provide Notice of the Committee's decision to the Complainee, the Complainant and their legal representative(s), if any. This Notice shall include a:

- (A) Brief summary of the Committee's conclusions and findings as to the truth or falsity of each allegation in the Written Complaint accepted for investigation;
- (B) Statement that substantially communicates the following: The Complainee-Member has twenty (20) calendar days to File a Petition for Reconsideration of this matter by the Ethics Committee or to appeal the decision of the Ethics Committee by Petition for Review to the Executive Committee for its review of the Ethics Committee's decision; or

- (C) Description of any sanction imposed upon the Complainee by the Committee or a statement that the “Committee has determined that no further discipline of the Complainee-Member is warranted.”

RULE 13. DISMISSAL

At its sole discretion, based on its findings, investigation and review of the matter, the Ethics Committee, upon majority vote, may dismiss a Written Complaint.

RULE 14. SANCTIONS

14.01 Sanctions

Upon a majority vote of the Ethics Committee, the Ethics Committee shall order the imposition of sanctions upon the Complainee-Member which may include any or all of the following:

- (A) Admonition for minor infractions including a recommended timeframe for taking corrective action.
- (B) A proposed plan of corrective action.
- (C) Suspension of some of the Complainee’s membership rights with particular focus to those membership rights which may relate either directly or indirectly to the infraction(s) within a particular timeframe.
- (D) Removal of the Complainee, as well as all the persons employed by the Complainee, from the ranks of all Association committees, boards and councils, including officers, directors, certified instructors, program panelists, etc. for a specific period of time.
- (E) Loss of any right to vote in any ballot or election conducted by the Association for a specific timeframe.
- (F) Mandatory attendance by the Member and/or some or all of its employees at Association education programs relating to the alleged violation of the Code within a particular time frame.
- (G) Expulsion from Association membership; or

14.02 Notice of Sanctions

In a matter involving a Written Complaint, if the Ethics Committee issues a sanction it must, in addition to the Notice requirements of Rule 12.03, notify the Complainee-Member in writing:

- (A) Of the sanction;
- (B) That the sanction is based on an investigation by the Ethics Committee of an accepted Written Complaint;
- (C) State the findings of the investigation, and
- (D) Inform the Complainee-Member of any corrective action that is to be taken.

14.03 Admonition

In a matter involving a Written Complaint, if the Ethics Committee concludes, upon a majority vote that a Member’s conduct was a violation of the Code, but of an isolated or non-serious nature, the Chair shall issue an admonishment.

- (A) This sanction shall have no impact upon the Complainee-Member’s membership or insurability for business purposes through for-profit arm of

the Association, or a similar entity provided corrective action is taken within a specified timeframe.

(B) The issuing of this sanction is deemed confidential information.

14.04 Suspension

- (A) At the direction of the Chair, and upon the determination by the majority vote of the Committee, that suspension of the Complainee-Member's Association privileges of membership is in order, the Committee may suspend the Member from membership privileges in the Association either in whole or in part for a stated period of time. Such period of time shall be set by a majority vote of the Ethics Committee.
- (B) The imposition of this sanction shall have no effect upon the Complainee-Member's insurability for business purposes through the Association.
- (C) Following the expiration of the Member's right to appeal, imposition of this sanction against the Complainee-Member by the Committee shall be published, at the next available opportunity, in the Association's Official Publication and on the Association's Web site, for a period of thirty (30) calendar days.
- (D) This sanction may be made effective retroactively to a date after investigation of the Written Complaint has begun, but before Final Disposition, by a majority vote of the Ethics Committee.

14.05 Expulsion

- (A) Upon the determination by the majority vote of the Committee that expulsion of the Complainee-Member from the Association is in order, the Committee may expel the Member from membership in the Association for a minimum of thirty-six (36) months, or longer, if the Ethics Committee finds it proper and appropriate based on its investigation and the severity of the findings;
- (B) Upon expiration of any relevant appeal period or upon final termination of membership from the Association due to expulsion, Legal Counsel shall notify the Executive Committee, the Communications Department, the Membership Department, the Insurance Department, the President of the Complainee-Member's Unit, if any, and the Complainant of the effective date for such Member's termination.
- (C) Within ten (10) business days of notice thereafter, the departments listed above shall take any action required under the Procedural Rules for the Ethics Committee and discontinue any benefits and entitlements associated with membership in the Association.
- (D) Upon expulsion from the Association, the Association's for-profit arm, or similar entity, shall terminate Complainee-Member's insurance for business purposes in accordance with the terms of the policy.
- (E) Imposition of this sanction against the Complainee/ Member by the Committee shall be published, at the next available opportunity, in the Association's Official Publication and on the public page of the Association's Web site, for a period of thirty (30) calendar days.

- (F) This sanction may be made effective retroactively to a date after investigation of the Written Complaint has begun, but before Disposition, by a majority vote of the Ethics Committee.

RULE 15. RE-APPLICATION AFTER TERMINATION

If a Member is expelled, re-application for membership in the Association may be made no earlier than thirty-six (36) months after the date of the final decision of the Ethics Committee. Under no circumstances may a Member's re-application for membership be accepted by the Association until such Member has provided the Ethics Committee with a certification and explanation thereof that it has taken appropriate corrective action to prevent further acts or omissions such as led to the expulsion. The Ethics Committee shall notify the Membership Department once documentation or a certification is received.

Pursuant to these Rules, the Ethics Committee or the Executive Committee may extend the time the expelled Member must wait before reapplying for membership.

- (A) Any application received before the expiration of the period set forth in the sanction or before thirty-six (36) months after the date of the final decision of the Ethics Committee, shall be returned to the applicant.
- (B) In the case of a Petition to the Ethics Committee for Reconsideration, and the Ethics Committee has reconsidered its decision, such thirty-six (36) month period, or a other period, if so specified in the sanction, shall begin on the date of the final decision of the Ethics Committee.
- (C) In the case of a Petition for Review to the Executive Committee, or if the Ethics Committee has not accepted a Petition for Reconsideration, and such matter was referred to the Executive Committee as a Petition for Review, such thirty-six (36) month period, or other period, if so specified in the sanction, shall begin on the date of the final decision of the Executive Committee.
- (D) Any such re-application for membership shall be processed through the regular channels and be required to meet all regular qualifications for membership in effect at the time of such re-application once the Ethics Committee has received certification and an explanation of corrective action.

RULE 16. INTERIM REMEDY

Upon receipt of any Written Complaint accepted for investigation, including a Written Complaint initiated by the Ethics Committee, whereupon by majority vote, the Ethics Committee determines that a Complainee-Member's continued active membership in the Association poses a threat of serious harm to either the Association, its subsidiaries or affiliates, or the public, the Committee shall direct the Legal Counsel to provide the Complainee-Member with Notice that its membership privileges in the Association are temporarily suspended pending a final outcome of the proceedings. The temporary Suspension of a Complainee-Member from the Association shall have no impact upon the Member's insurability for business purposes through the Association's for-profit arm, or similar entity, and shall be deemed confidential pending a final disposition of the matter.

RULE 17. RESIGNATION

The Committee shall at any time throughout these disciplinary proceedings grant a Complainee-Member's Petition to Resign from the Association. In such case, the Chair of the Ethics Committee shall notify the Membership Department within ten (10) calendar days thereafter of the Member's voluntary resignation. If the Committee finds that after a Written Complaint has been accepted for investigation against a Member, and that Member resigns before the Disposition of the Complaint, the Committee shall issue a Disposition, stating a period of time after which that Member may apply for re-application if the Member so desires. The Committee shall consider the timelines for re-application provided in these Rules in making its decision based on the facts of the matter.

RULE 18. APPEAL PROCESS

Any appeal of the decision of the Ethics Committee or a final decision by the TPA shall be in accordance with the following Rules.

18.01 Petition to the Ethics Committee for Reconsideration

If within twenty (20) days of receipt of the Ethics Committee's Disposition and Sanctions, or of the dismissal of a matter, either party sends a Notice requesting a Reconsideration of the matter, such an appeal will be deemed a Petition for Reconsideration to the Ethics Committee if the appealing party so states or if the petition establishes good cause for reconsideration by bringing forth additional facts or circumstances, previously unknown to the Ethics Committee. The Committee has discretion to reconsider its decision or reschedule the matter for further investigation and Reconsideration.

18.02 Appeal from Reconsideration

If after the Ethics Committee has reviewed a Petition for Reconsideration and renders a decision regarding the Petition for Reconsideration, a party appeals the decision of the Ethics Committee by sending a Notice of appeal to the Legal Counsel, such appeal will be deemed to be a Petition for Review to the Executive Committee.

18.03 Petition for Review to Executive Committee

Within twenty (20) calendar days of receipt of the Committee's Notice of Disposition and Sanctions, either the Complainee-Member or the Complainant may file a Petition for Review to the Executive Committee, with the Legal Counsel.

18.04 Procedure for Review by the Executive Committee

When a Petition for Review is received by the Legal Counsel or the Association's General Counsel, the Executive Committee and the parties to the action shall be notified of the Petition for Review within twenty (20) calendar days informing them of the date the Executive Committee will review the matter. Such Notice shall include:

- (A) Whether the Executive Committee shall review the allegations of the Written Complaint on the record (requiring no appearance by the parties), at a hearing before the Executive Committee or whether in-person attendance is required, or at such other proceedings as the Executive Committee shall deem appropriate (i.e., teleconference, video conference, etc.);
- (B) The date, time, and mode of conducting the hearing, if any;
- (C) The appealing party's right to be represented by counsel at the proceedings; and,
- (D) If the Executive Committee decides not to review the matter, the Notice shall additionally state the Executive Committee's reasons for non-review in accordance with these Rules.

*18.05 Process of Review by
Committee*

If accepted, the Executive Committee may investigate the matter concerning the Petition for Review and, consider the findings of the Ethics Committee, the procedural history and the facts regarding the Written Complaint and the circumstances of the individual case.

*18.06 Standard of Review and
Disposition or Remand by
Executive Committee*

At the conclusion of the proceedings by the Executive Committee, the Executive Committee may:

- (A) Affirm the decision of the Ethics Committee, or;
- (B) If a preponderance of the evidence, documents, statements, formal and informal record, and other information reviewed by the Ethics Committee in the matter does not sufficiently establish the basis for the Ethics Committee's decision based on a majority vote of the Executive Committee
 - i. Remand the matter back to the Ethics Committee for additional investigation or additional proceedings in accordance with specific instructions by the Executive Committee. Such instructions shall state, in writing, the findings of the Executive Committee, any timelines it may impose and other particulars, or;
 - ii. Impose such other disposition of the matter(s) as it deems appropriate.

*18.07 Finality of Executive
Committee Decision.*

Except in cases where a matter is remanded back to the Ethics Committee for further action, a decision by the Executive Committee shall be final and shall terminate these proceedings. The Executive Committee shall state in writing, its findings regarding any decision it makes. There shall be no further appeal of the matter by any party.

RULE 19. OPPORTUNITY FOR APPEAL ON MATTER REMANDED

In cases, where a matter is appealed to the Executive Committee and that matter is remanded back with instruction to the Ethics Committee, the decision of the Ethics Committee shall be final, unless a party appeals the decision of the Ethics Committee after remand within twenty (20) days of receipt of the Ethics Committee's Disposition of the matter remanded, via Notice. An appeal may be made only to the Executive Committee which shall follow Rules 18.03-19 herein. This shall be the last appeal in the matter. Any decision by the Executive Committee, whether an appeal is accepted and considered, or rejected, shall be final and shall terminate these proceedings.

RULE 20. RECORD RETENTION

20.01 Retention

The Legal Counsel shall keep and store the official files of the Ethics Committee. Such files may be composed of items which are hard copy originals, photocopies thereof, items stored magnetically or electronically, including audio and video tapes, e-mails, handwritten notes and any other record of ethics related activity, including but not limited to, ethics investigations, correspondence of all kinds, Sanctions, Written Complaints, Replies, Answers, investigation reports and related materials. Nothing herein shall prohibit the Legal Counsel from retaining properly secured electronic copies of records provided all paper copies are properly destroyed. All such items shall be retained by the Legal Counsel for a period **not to exceed six (6) years**. Six (6) years

after the creation or the date listed on an item, whichever is earlier, the Legal Counsel shall, in the regular course of its business routine, destroy all such items in whatever form. Therefore, these items will be deemed not to be available for any purpose.

20.02 Exception.

As an exception to the above Rule 20.01, in the event that the Legal Counsel has knowledge that any specific ethics-related item has been, or is likely to be requested, as a part of a legal proceeding, whether formally requested or not, such item will be retained, until such time as it is no longer so required.

RULE 21. AMENDMENTS

The Ethics Committee shall be empowered to adopt practices and procedures which affect the day-to-day operations of that Committee and is specifically empowered to modify and amend these Procedural Rules with the approval of the Executive Committee.

RULE 22. DEFINITIONS

This section provides the official definitions for terms used throughout the Code of Ethics and Code of Operations and the corresponding Procedural Rules of the Ethics Committee as amended from time to time.

“Association” and “the Association” means “ACA International, The Association of Credit and Collection Professionals,” a corporation existing as a 501(c)(6) under the Rules of the U.S. Internal Revenue Service and its subsidiaries.

“Association’s Application for Membership Form” means any form, approved by the Membership Department, used by applicants to seek membership in ACA.

“Association’s Membership Renewal Form” means any form, approved by the Membership Department, used by Members on an annual basis to renew their membership with ACA.

“Client” means any person or entity who has a current or previous business relationship with a Member in which the Member is either currently providing or has previously provided a product or service to the person or entity.

“Member” means any company (including the company’s employees on record), partnership, business entity or individual who has successfully applied for and obtained membership in the Association pursuant to the Rules as further described herein. For purposes of this definition Member includes Affiliate Members, Agency Members, Asset Buyer Division Members, Creditor International Members and Members’ Attorney Program Members.

“Notice” means any notice required or permitted to be given pursuant to these Procedural Rules shall be deemed given when received and shall be sent either by mail in a manner which evidences receipt or by electronic submission, if such technology is available and an accepted form of communication.

“Sent” shall mean that all communications per these Rules will be sent electronically to the attention of the Member’s contact person unless email communication is not

available. In that instance, the information will be sent by mail in a manner which evidences receipt or by electronic submission, if such technology is available and an accepted form of communication.

“Third Party Consumer Dispute Resolution Administrator (TPA)” means the third party ACA has contracted with to investigate and resolve consumer driven Written Complaints. See attached Addendum.

“Written Complaints” means any completed complaint form received by the Ethics Committee or the Association’s TPA which alleges violations of federal or state law or any part of the Code. The allegations will be considered a Written Complaint if sent or transmitted by US Mail, email, fax or submission via ACA’s website.

Amended May 4, 2010

THIS INFORMATION IS NOT INTENDED AS LEGAL ADVICE AND MAY NOT BE USED AS LEGAL ADVICE. IT SHOULD NOT BE USED TO REPLACE THE ADVICE OF YOUR OWN LEGAL COUNSEL. ANY INFORMATION CONTAINED IN THIS MATERIAL IS BASED ON CURRENT RESEARCH INTO THE ISSUES AND ON THE SPECIFIC FACTS INVOLVED HEREIN.

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ACATM

INTERNATIONAL
The Association of Credit
and Collection Professionals

4040 W. 70TH STREET
MINNEAPOLIS, MN 55435

TEL +1(952) 926-6547

FAX +1(952) 926-1624

E-MAIL ACA@ACAINTERNATIONAL.ORG

[HTTP://WWW.ACAINTERNATIONAL.ORG](http://WWW.ACAINTERNATIONAL.ORG)
