

# PCMLS Schedule of Fines & Sanctions for MLS Violations

## I. DATA INPUT VIOLATIONS:

With respect to a listing, each of the items listed below is a violation of the Rules and Regulations. Following written notification (e-mail and/or mail) of the violation(s), the member will have a three (3) business day grace period to correct the violation(s). If the violation(s) is corrected during this grace period, the fine will be waived. For purposes of this schedule, the term “business days” shall mean Monday through Friday, exclusive of State or Federal holidays. If the violation is not corrected during the three (3) business day grace period, the member will be fined \$50.00. If the violation is not corrected within five (5) business days of the original violation, the Board will assess an additional \$50 fee and may, but is not required to make the correction.

1. Failure to enter a listing which is complete and accurate in every mandatory field. (Section 1.2)
2. Failure to enter any changes in the broker compensation including bonuses (Section 5, Note 2A)
3. Failure to update tax identification number after a permanent number is issued or to correct an error if the tax identification number is entered incorrectly. (Section 1.2)
4. Failure to enter at least one photo within 5 days of entering the Listing on the MLS. (Section 1.2F)
5. Failure to enter a listing in the correct property type, or entering a listing into more than one property type. (Section 1B)
6. Failure to include an “Amenities,” “Lifestyle”, or “Surrounding Area”  
” banner on the primary photo of any Listing that is taken off of the property.. (Section 1.2G)
7. Posting a photo that does not accurately represent the property views (Section 1.2H).
8. Failure to include an “Under Construction” banner on the primary photo of any Listing that does not have a Certificate of Occupancy. (Section 1.2I)

## II. TIMELINESS AND MISCELLANEOUS VIOLATIONS:

The MLS Rules & Regulations stipulate that entry of, and status changes to, listings must occur within five (5) business days of either the effective date or the date that all required signatures have been obtained (whichever is later). Violations are tracked for a 2-year period from the first offense per each individual violation. Following written notification (e-mail and/or mail) of the violation(s), the member will have a three (3) business day grace period to correct the violation(s). If the violation(s) is corrected during this grace period, the fine will be waived. For purposes of this schedule, the term “business days” shall mean Monday through Friday, exclusive of State or Federal holidays. If the violation is not corrected during the three (3) business day grace period, the member will be fined \$50.00. If the violation is not corrected within five (5) business days of the original violation, the Board will assess an additional \$50 fee and may, but is not required to make the correction.

The following violations and the fines associated with the offense(s) are as follows:

- 1<sup>st</sup> offense: Warning issued.
- 2<sup>nd</sup> offense: \$25 fine
- 3<sup>rd</sup> offense: \$100 fine
- 4<sup>th</sup> offense: \$200 fine
- 5<sup>th</sup> offense: \$500 fine
- 6<sup>th</sup> offense: 3 month MLS usage suspension and, upon reinstatement, must complete an ethics class within one month.

1. Failure to enter a listing of any property within the MLS jurisdiction. (Section 1)
2. Failure to submit a signed “Certification to Withhold Property Listing” (Section 1.3A)
3. Failure to comply with the public remarks rules. (Section 1.2C)

4. MLS subscriber NOT obtaining the prior consent of the listing broker to advertise their listing. (Section 2.7)
5. Failure of a subscriber to disclose through the MLS any ownership in the listed property (Section 5.1)
6. Failure of a subscriber to disclose a contemplated personal interest in the property at the time the purchase offer is submitted (Sections 5.2)
7. Non-Subscriber placing a listing through their Participant where the Licensed Agents are not a Subscriber. (Section 8.b.i., Note 1). Non-subscriber information cannot be listed in the confidential and/or any public remarks sections. (Section 3.18)
8. Failure to enter any changes to listing agreement, including change in listing price (Section 1.4)
9. Failure to enter an extension, withdrawal or renewal (reinstate date) for a listing (Sections 1.5 & 1.10)
10. Failure to enter the renewal or removal of a contingency (Sections 1.6 & 2.6)
11. Failure to report a status change (Section 1.5)
12. Failure to enter a Pending Sale with a Time Clause Contingency (Section 2.5B)
13. Failure to enter a Pending Sale (Section 2.5B)
14. Failure to enter a closed sale (Section 2.5)
15. Failure to enter the cancellation of a Pending Sale (failed sale) (Section 2.8)
16. Failure to remove a time clause contingency (Section 2.8A)
17. Failure to obtain permission from the original listing broker, or any other owner of a photograph or other visual image, to use such photographs or visual image associated with any current or previous listings, except as permitted by Section 13A of Rules and Regulations of the Park City Multiple Listing Service. (Section 13A)
18. Failure to enter at least one photo within 5 calendar days of entering the listing on the MLS. (Section 1.2F)
19. Failure to include an "Under Construction" banner on the primary photo of any listing that does not have a Certificate of Occupancy. (Section 1.2G)
20. Failure to submit a written offer to a seller. (Section 2.2)
21. Failure to include the words "Limited Service Listing" in the confidential remarks of a Limited Service Listing. (Sec. 1.2.1A)
22. Failure to disclose dual rate commission in confidential remarks (Sec. 5.3.A)
23. Failure to disclose HUD identification number in confidential remarks when a range of commissions is approved by HUD. (Sec. 5.3C)
24. Misrepresentation of availability of access to show or inspect listed property (Sec. 2.10)
25. Failure to report a potential Short Sale when reasonably known. (Section 5.0.1)
26. Failure to enter a closed Short Sale. (Section 2.5)

### III. IMMEDIATE FINES:

Violations are tracked for a 2-year period from the first offense per each individual violation. There is no warning associated with these fines and the fine schedule is as follows. Following written notification (e-mail and/or mail) of the violation(s), the member will have a three (3) business day grace period to correct the violation(s). For purposes of this schedule, the term "business days" shall mean Monday through Friday, exclusive of State or Federal holidays. If the violation is not corrected during the three (3) business day grace period, the member will be fined an additional \$50.00. If the violation is not corrected within five (5) business days of the original violation, the Board will assess an additional \$50 fee and may, but is not required to make the correction.

1st offense - \$100

2nd offense - \$200

3rd offense - \$500

4th offense - \$1,500

5th offense - 3 month MLS usage suspension and, upon reinstatement, must complete Ethics Class within 1 month.

1. Subscriber and/or affiliate subscriber (e.g., home inspector, photographer) who loans or transfers a key pad, or device with key pad ability to any unauthorized person or entity or uses the key pad for any unauthorized purpose. (Section 20.3.n)
2. Failure to disclose the presence of exempted prospects or the expiration date of their exemption in the MLS "confidential remarks" (Sec. 5.3B)

3. Failure to coordinate showing appointments through the listing broker, or otherwise failing to follow showing instructions contained in the MLS listing (Section 2)
4. Failure to obtain written authorization, in advance, from the owner of a property verifying his/her consent to market the property not yet owned by a potential seller, or the assignability of a real estate purchase contract by the potential seller. A potential seller is anyone who does not yet own the property.
5. Subscriber providing MLS credentials to ANYONE. (Section 4A)
6. Placing a lock box on a property without the prior written consent of the owner of that property (Sec. 20.3k)
7. Failure to obtain signed authorization from seller & the listing broker before entering a listing, an extension, withdrawal or renewal of a listing (Section 1B, Note 1)
8. Violation of any provisions of the Park City Multiple Listing Service Rules & Regulations, including but not limited to the prohibition of communication of confidential information (Section 10.2D)
9. Disclosing Sold data to any entity other than the MLS or an active client (Section 2.5C, Note 2.A)

#### **IV. VERIFICATION PROCESS:**

The PCMLS may request subscriber who violates these rules and regulation to provide any signed and dated document(s), at the PCMLS's discretion, reasonably related to such violation(s). (Sec 1.2E) Failure to provide the PCMLS with the requested documentation within three (3) business days after the request shall result in an additional \$25 administrative fine.

#### **V. APPEALS PROCESS:**

Appeals to the fines may be requested by providing written notice to the PCMLS together with the basis of the appeal, within 15 days of the original notification of violation (refer to Article 9, Enforcement of Rules or Disputes in the MLS Rules and Regulations.)

#### **VI. INTENTIONAL MISCONDUCT FINES:**

Actions taken by participants and/or subscribers to circumvent the rules on reporting accurate information (e.g., evade reporting of the sales price) will result in an immediate fine and possible suspension if the accurate information is not reported. There is no warning with these fines. The fine schedule is shown below. Following written notification (e-mail and/or mail) of the violation(s), the member will have a three (3) business day grace period to correct the violation(s) and pay a \$500 fine. For purposes of this schedule, the term "business days" shall mean Monday through Friday, exclusive of State or Federal holidays. If the violation is not corrected during an additional three (3) business day grace period, the member will be fined an additional \$1,000. If the violation is not corrected within eight (8) business days of the original violation, the member will be given a 3-month MLS usage suspension and the member will be required to complete and Ethics Class and pay any outstanding fines before reinstatement.

Actions taken to avoid reporting Sold data to the MLS (Section 2.5A)

- 1st offense fine: \$500.**
- 2nd offense fine: \$1,000.**
- 3rd offense fine: 3-month MLS usage suspension. Member must complete an Ethics Class and pay fine before reinstatement.**

Intentional Misconduct fines do not reset or sunset. Therefore, regardless of the amount of time between offenses, the second offense will receive a 2<sup>nd</sup> offense fine. After the second offense, all subsequent offenses will result in a fine of \$1,000 & 3-month suspension.

Intentional Misconduct Fines are applied only to the agent unless the broker actively participated in the agent's misconduct or fails to return a signed certification with the 3 business days, in which case it is also applied to the broker. The broker will always be notified of an Intentional Misconduct offense by any of their agents.

**VII. VERIFICATION PROCESS:**

When a suspected violation occurs, the following steps will be taken:

1. A notice will be sent to the Listing Agent and Broker requiring certification that no attempt to circumvent rules on reporting accurate information was made and that no commission was paid to any Agent or Brokerage, including any cooperating Broker. Listing Agent and Listing Broker will be given 3 business days to returned a signed certification to the Board.
2. If the signed certification is not received within the above time-period, Listing Agent and Broker will each be fined \$500 and given an additional 3 business days to comply. If the certification is not received within six (6) business days of the original notice, the member will be fined an additional \$1,000. If the certification is not received within eight (8) business days of the original notice, the agent will be given a 3-month MLS usage suspension and the member will be required to complete and Ethics Class and pay any outstanding fines before reinstatement.
3. If Listing Agent acknowledges that there was an attempt to circumvent reporting the sales price, they will be required to report the accurate transaction information including sales price and Selling Agent within 24 hours. The Listing Agent will be required to pay a \$500 fine. The Listing Broker will receive no fine. If Listing Agent fails or refuses to report the accurate sales price, it will be as if no certification was received and section 2 above will apply, except the Broker will not receive a fine.
4. If a signed certification is received and later determined to be invalid, it will be as if no certification was received and the above fine schedule will begin, requiring the agent to report the accurate sales price.

**VIII. BROKER REQUEST FOR WAIVER:**

Listing Broker shall have to the right to request a waiver to this policy. Any fines or suspension will be delayed until after the appeal has been heard. Broker shall complete a form with the accurate sales information including price along with a \$500.00 fee and submit this to Board of Directors with a business justification for why the Board should grant the use of the undisclosed sales price in this situation. The Board will consider the request at the next Board Meeting. If the Board approves the request, the Broker may report the transaction as undisclosed sales price and the agent will not be required to pay a fine. At closing, the Broker shall supply the Board with a copy of the Settlement Statement that will be kept confidential. The Board may use the actual sales price in its aggregated statistics but will not reveal the actual sales price to anyone other than the Board Staff.

**IX. PAYMENT OF FINES**

Fines will be billed to the subscriber's MLS account and are payable as stated in Section 7C of the MLS Rules and Regulations.

I agree that I have received, read and understand the above fines and sanctions.

NAME \_\_\_\_\_ SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_  
Please print legibly