



Version 5  
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# **MSPA Violations and the Unified Dispute Resolution Process**



# Table of Contents

**PART ONE: The MSPA Common Codes of Professional Standards and Ethical Conduct ..... 2**

**PART TWO: MSPA Violations and the Unified Dispute Resolution Process..... 2**

Section I: Categories of Disputes ..... 2

Section II: Category I Jurisdiction (“Intra-Regional Dispute”) ..... 3

Section III: Category II Jurisdiction (“Inter-Regional Dispute”) ..... 6

Section IV: Category III Jurisdiction (“Global Dispute”) ..... 8

Section V: Governors..... 10

Section VI: Requirements for DRC Recommendations to the Global Board of Directors..... 11

Section VII: Conflict of Interest ..... 12

Section VIII: Additional Category III Violations ..... 12

Section IX: Sanctions for Category I, Category II and Category III Violations of Ethical Conduct ..... 13

Section X: Dispute Resolution Process and Timeline for Category I Complaints..... 13

Section XI: Dispute Resolution Process and Timelines for Category II and Category III Complaints ..... 16

**PART THREE: Appendix..... 19**

Governor Job Description and Qualifications ..... 19

MSPA Common Codes Violation Complaint ..... 20

MSPA Common Codes Violation Complaint Appeal ..... 22



## **PART ONE: The MSPA Common Codes of Professional Standards and Ethical Conduct**

The MSPA members, regional governing boards and the Global Board of Directors (collectively “MSPA”) recognize the necessity to administer and enforce common codes of professional and ethical behaviors around the world in order to protect each member’s investment in the trade association; the reputation of the members collectively as well as the association; and the image, credibility and integrity of the MSPA brand.

As a result, the **MSPA Violations and the Unified Dispute Resolution Process, part of the MSPA Common Codes of Professional Standards and Ethical Conduct**, is a unified and collaborative approach to a common commitment of ensuring excellence and integrity among MSPA members and governing boards, exist to examine and resolve the circumstances of disputes among MSPA members and/or governing boards within MSPA.

The **Unified Dispute Resolution Process** is available to every MSPA member and governing board provided that no party to the dispute has commenced any legal proceedings in any jurisdiction of the world. In the event that either party to a dispute filed under the **Unified Dispute Resolution Process** subsequently becomes a party to any legal proceedings, voluntary or involuntary, related to the filed dispute at any point while the issue is being reviewed under the **Unified Dispute Resolution Process**, the party connected to the legal proceedings shall notify their respective Governor within three (3) business days of commencing such proceedings or of learning of any such legal proceeding involving the dispute issue. Upon receiving such notice, the Governor shall notify the region’s Board President and Executive Director, or the other Governors and Global Board Chair, whichever may apply in the specific circumstances, of the legal proceedings, and all MSPA-related activities regarding the dispute shall be immediately suspended until such time as all formal legal proceedings have been completed. At the completion of all legal proceedings, the process shall continue unless the complaining party chooses to withdraw the complaint. If the complaint is not withdrawn and the **Unified Dispute Resolution Process** is re-activated, the Governor, DRC and others involved in the **Unified Dispute Resolution Process** may take the results of the formal legal proceedings into their consideration of resolving the issue.

## **PART TWO: MSPA Violations and the Unified Dispute Resolution Process**

Complaints of alleged actions or behaviors which reasonably and materially appear to violate one or more provisions of the **MSPA Common Codes of Professional Standards and Ethical Conduct** may be filed against the relevant MSPA member(s), regional board(s) or member of the Global Board of Directors in connection with the alleged violation. All bona fide allegations filed must be documented in writing and submitted via the proper resources, protocols and timelines outlined in this **MSPA Violations and the Unified Resolution Process**.

### **Section I: Categories of Disputes**

MSPA recognizes three categories of disputes which are governed by the **MSPA Common Codes of Professional Standards and Ethical Conduct**.

These categories of dispute are as follows

- Category I:** Member A vs. Member B, Same Region (“**Intra-Regional Dispute**”)
- Category II:** Member A vs. Member B, Different Regions (“**Inter-Regional Dispute**”)
- Category III:** Region A vs. Region B; Complaints vs. Global Board Members (“**Global Dispute**”)

## **Section II: Category I Jurisdiction (“Intra-Regional Dispute”)**

This section contains an overview of the Category I dispute resolution process. A step by-by-step guide with timeline information follows later in this document.

Category I disputes shall be filed with the regional governing board of directors’ Executive Director and reviewed and adjudicated by its Governor. Following an impartial review of the facts of a properly and timely filed dispute, the Governor shall provide his or her findings, conclusions and recommended sanctions to his or her regional governing board review committee (which shall be chaired by the regional board President, and which shall consist of the regional board President, Vice-President and Executive Director) under the prescribed timelines detailed herein.

If the regional board President, Vice-President or Executive Director is a party to the dispute, or if the dispute involves a member from any of their companies, or if a potential conflict of interest may reasonably exist involving any of the individuals and any parties to a given conflict (each an instance of a “Conflicted Member”), then the Treasurer of the regional governing board shall assume all responsibilities of the Conflicted Member as it relates to this dispute. The regional governing board review committee shall presumably accept, authorize and approve such conclusions and sanctions, if any, of the Governor and shall present a summary of the issues, findings, conclusions and sanctions, including the committee’s own non-binding recommendations as to whether to accept, modify or reject those findings, conclusions and sanctions at the next meeting, regular or special, of the regional governing board where a quorum is present; however, the regional governing board may also reject or modify the conclusions and sanctions, if any, presented at the next meeting, regular or special, of the regional governing board where a quorum is present with a vote in favor of such action by at least 67% of eligible voting members (“Interdiction Motion”). If no Interdiction Motion is presented, or if one is presented and it does not pass with the support of at least 67% of eligible voting members, then the original conclusions and sanctions, if any, as presented by the Governor are deemed to have been accepted, authorized and approved by the regional governing board with the obligation to implement any recommended sanctions.

The Governor’s conclusions and any recommended sanctions are divisible; in other words, a regional governing board review committee or governing board may accept, authorize and approve the conclusions (following the procedure described above), but modify or reject any or all proposed sanction(s).

Great deference should be given to the work-product of the Governor, specifically his or her resultant conclusions and any recommended sanctions. The intent of the appointment of the Governor is allocate the fact-finding process to a qualified representative from the region for efficiency, competency and equity. To treat an Interdiction Motion without gravity or to re-litigate the issues at hand following presentation to the regional governing board by the members of the regional governing board, absent a significant error in process or understanding by the Governor, undermines and frustrates the purpose and process of the Governor. This in no way should be interpreted to construe a complete restriction on the question and answer process or debate of the conclusions or sanctions presented by the Governor in fulfillment of the regional governing board's fiduciary responsibilities; rather the regional governing board should review the conclusions and sanctions, but should comport themselves in a manner of exercising such responsibilities from an oversight and validation perspective.

The losing party may appeal the findings, conclusions and sanctions, if any, of the regional governing board by appealing back to the regional governing board. Once again the appeal should be filed with the region's Executive Director, who shall notify the region governing board President, Vice-President and Governor, and such appeal shall be placed on the agenda of the next meeting, regular or special, of the regional governing board where a quorum is present for discussion and affirmation, modification or overturning of the prior decision. The Governor shall also review the appeal and provide a written advisory opinion to the regional board review committee in advance of the scheduled regional board meeting regarding the merits of the appeal for the regional governing board review committee and regional governing board to take under consideration. Great deference should generally be given to the Governor's advisory opinion, although final authority to affirm, modify or vacate the original conclusions and sanctions, if any, vest in the regional governing board. ***Unless new material evidence is presented in this appeal, affirmation of the prior decision(s) should be given by the regional governing board in resolving the appeal.***

In both instances (an initial decision and an appellate decision), in the interests of protecting the privacy of the parties as much as is practical, the full report of the Governor should typically only be presented to the regional governing board review committee. As an ordinary and usual standard of practice, the regional operating board review committee, via the regional board President, shall summarize the issues, findings, conclusions and sanctions presented by the Governor in regards to the matter rather than provide the entire report from the Governor; however the regional operating board President shall have the sole discretion to disclose additional information, including the full report, if he or she reasonably believes that such disclosure is materially necessary for the regional operating board to fairly assess and vote on the conclusions and proposed sanctions regarding the matter in either the initial adjudication or on an appeal.

It is generally recognized that any such expanded disclosure of information to the entire regional operating board beyond a summary report should be restricted to materially necessary information and should be applied with great deference in weighing the consequences of the resulting corresponding reduction in the privacy for the parties involved.



Generally, the losing party may not further appeal the appellate conclusions and sanctions, if any, of the Governor and/or regional governing board on the substance of the disputed issue beyond the regional governing board; however the losing party may further have one final opportunity to appeal if it can be reasonably asserted that a documented material breach of fair process in the original adjudication and/or appellate procedure conducted at the regional governing board level is alleged to have occurred, or is reasonably likely to have occurred.

If there is a reasonable good faith belief of a documented **material breach of fair process**, the losing party may make a final appeal to the Global Dispute Resolution Council (“DRC”, which shall consist of the Governors from each MSPA region), who **at first may only review the process and not the merits of the original issue**. If the DRC finds no material breach of fair process, then the findings, conclusions and sanctions, if any, of the Governor and/or regional governing board shall be affirmed and final.

**Relatively inconsequential actions shall not trigger a material breach of process per se.** A material breach of process must be reasonably argued to have unfairly impacted the party’s ability to have a full defense of its position with impartiality, and/or denied the party of the procedural protections that should have been afforded it under the **MSPA Unified Dispute Resolution Process** to assess the party’s position without prejudice; and that consequently thereof, as a result, the breach clearly, materially and unfairly impacted the ultimate findings and conclusions.

The DRC should look to whether an act or series of acts by an individual, company or the regional governing board reasonably and materially contributed to an inability of the appellate party to have presented its position without frustration of process, partiality or prejudice. One’s opinion and assertion that such a violation of process did occur, without additional substantiation, shall not in itself be deemed a material breach of fair process, and in fact, **the DRC should hold this test to a relatively strict standard so as to not commonly interfere with the affairs of a region’s own dispute resolution process**, but rather to act only in situations where a clear material breach of that process has occurred or is reasonably likely to have occurred.

If, however, the DRC finds that a documented material breach of fair process has occurred or is reasonably likely to have occurred, then the DRC shall reconsider the merits of the original issue and provide its own final findings, conclusions and sanctions, if any, *which shall supersede all prior findings, conclusions and sanctions*, if any, to the Global Board of Directors, who shall presumably accept, authorize and approve the conclusions and sanctions, if any, recommended by the DRC, at the next meeting, regular or special, of the Global Board of Directors where a quorum is present. If approved, the Global Board of Directors shall direct the relevant regional governing board to communicate its newly approved findings and conclusions to the parties and to implement any sanctions, if any, appurtenant to those conclusions and approved by the Global Board of Directors.

However, the Global Board of Directors may also reject or modify the conclusions and recommended sanctions, if any, at the next meeting, regular or special, of the Global Board of Directors where a quorum is present with a vote in favor of such action by at least 67% of eligible voting members (an Interdiction

Motion). If no Interdiction Motion is presented, or if one is presented and it does not pass with the support of at least 67% of eligible voting members, the DRC's conclusions and sanctions, if any, as presented by the DRC are deemed to have been accepted, authorized and approved by the Global Board of Directors, who shall direct the relevant regional governing board to communicate its approved conclusions, and to implement any recommended sanctions resolved by the DRC and authorized and approved by the Global Board of Directors.

The DRC's conclusions and any recommended sanctions are divisible; in other words, the MSPA Global Board of Directors may accept, authorize and approve the conclusions (following the procedure described above), but modify or reject any or all proposed sanction(s).

For clarity, when the DRC issues its findings, conclusions and sanctions, these decisions and subsequent declaration of such shall be based upon the simple majority, or greater, opinion of the DRC. The DRC shall never disclose the individual voting or perspectives of each Governor to anyone outside of the DRC in order to protect the integrity of the process, to promote a fair and unfettered dialogue among the Governors which is free from regional political pressures, and to protect each Governor from any potential retaliation from the home regional governing board were a Governor to impartially take a point of view which is not in alignment with that of their own region's regional operating board of directors. As such, regardless of whether there are unanimous findings, conclusions and recommended sanctions on any given issue, so long as there is a simple majority of Governors agreeing with any findings, conclusions and sanctions on any issue, the DRC shall term the outcome as "a majority of the DRC".

Great deference should be given to the work-product of the DRC, specifically their resultant conclusions and any recommended sanctions as the committee represents regional governing board selected and qualified Governors from each of the regions. The intent of the formation of the DRC is allocate the fact-finding process to such representatives of each region for efficiency, competency and equity. To treat an Interdiction Motion without gravity or to re-litigate the issues at hand following presentation to the Global Board of Directors by the members of the Global Board of Directors, absent a significant error in process or understanding by the DRC, undermines and frustrates the purpose and process of the DRC. This in no way should be interpreted to construe a complete restriction on the question and answer process or debate of the conclusions or sanctions presented by the DRC in fulfillment of the Global Board of Directors' fiduciary responsibilities; rather the Global Board of Directors should review the conclusions and sanctions, but should comport themselves in a manner of exercising such responsibilities from an oversight and validation perspective.

There shall be no further appeal on this matter.

### **Section III: Category II Jurisdiction ("Inter-Regional Dispute")**

This section contains an overview of the Category II dispute resolution process. A step by-by-step guide with timeline information follows later in this document.

Category II disputes shall be filed with the Executive Director from the complainant's region, who shall promptly forward a copy of the complaint to the members of the DRC as well as the Global Board of Director's Chair. The complaint shall be reviewed and adjudicated by the DRC. The DRC for this dispute shall be chaired by the Governor from the Region which is not a party to the dispute. If there is more than one Governor from regions which are not parties to the dispute, the Governor from a region which is not a party to the dispute with the longest serving DRC tenure shall chair the DRC for this dispute. If all remaining Governors from regions which are not a party to the dispute have equal tenure, then the Global Board of Directors Chair shall select one of those remaining Governors to chair the DRC for this dispute.

If the Chair of the Global Board of Directors is a party to the dispute, or if the dispute involves a member from any of his or her companies, or if a potential conflict of interest may reasonably exist involving the Global Chair and any parties to a given conflict, then the Vice-Chair of the Global Board of Directors shall assume all responsibilities of the Global Chair as it relates to this dispute, i.e. receiving the complaint, selecting a Governor to chair the DRC, etc.

Following an impartial review of the facts of a properly and timely filed dispute, the DRC shall present its findings, conclusions and recommended sanctions, if any, to the Global Board of Directors review committee (which shall be chaired by the Global Chair, and which shall consist of the Global Board of Directors Chair, Vice-Chair and the founding member of the Global Board of Directors who is from the region which is not a party to the dispute), under the prescribed timelines detailed herein. The Global Board of Directors review committee shall review the findings, conclusions and recommended sanctions, if any, and shall present a summary of the issues, findings, conclusions and sanctions, including the committee's own non-binding recommendations as to whether to accept, modify or reject those findings, conclusions and sanctions at the next meeting, regular or special, of the Global Board of Directors where a quorum is present; however, the Global Board of Directors may also reject or modify the conclusions and sanctions, if any, at the next meeting, regular or special, of the Global Board of Directors where a quorum is present by a vote in favor of such action by at least 67% of eligible voting members, an Interdiction Motion.

In the interests of protecting the privacy of the parties as much as is practical, the full report of the DRC should typically only be presented to the Global Board of Directors' review committee. As an ordinary and usual standard of practice, the Global Board of Directors' review committee, via the Global Board of Directors Chair, shall summarize the issues, findings, conclusions and sanctions presented by the DRC in regards to the matter rather than provide the entire report from the DRC; however the Global Board of Directors Chair shall have the sole discretion to disclose additional information, including the full report, if he or she reasonably believes that such disclosure is materially necessary for the Global Board of Directors to fairly assess and vote on the conclusions and proposed sanctions regarding the matter.

It is generally recognized that any such expanded disclosure of information to the entire Global Board of Directors beyond a summary report should be restricted to materially necessary information and should be applied with great deference in weighing the consequences of the resulting corresponding reduction in the privacy for the parties involved.



The DRC's conclusions and any recommended sanctions are divisible; in other words, the Global Board of Directors may accept, authorize and approve the conclusions (following the procedure described above), but modify or reject any or all proposed sanction(s).

For clarity, when the DRC issues its findings, conclusions and sanctions, these decisions and subsequent declaration of such shall be based upon the simple majority, or greater, opinion of the DRC. The DRC shall never disclose the individual voting or perspectives of each Governor to anyone outside of the DRC in order to protect the integrity of the process, to promote a fair and unfettered dialogue among the Governors which is free from regional political pressures, and to protect each Governor from any potential retaliation from the home regional governing board were a Governor to impartially take a point of view which is not in alignment with that of their own region's regional operating board of directors. As such, regardless of whether there are unanimous findings, conclusions and recommended sanctions on any given issue, so long as there is a simple majority of Governors agreeing with any findings, conclusions and sanctions on any issue, the DRC shall term the outcome as "a majority of the DRC".

Great deference should be given to the work-product of the DRC, specifically their resultant conclusions and any recommended sanctions as the committee represents regional governing board selected and qualified Governors from each of the regions. The intent of the formation of the DRC is allocate the fact-finding process to such representatives of each region for efficiency, competency and equity. To treat an Interdiction Motion without gravity or to re-litigate the issues at hand following presentation to the Global Board of Directors by the members of the Global Board of Directors, absent a significant error in process or understanding by the DRC, undermines and frustrates the purpose and process of the DRC. This in no way should be interpreted to construe a complete restriction on the question and answer process or debate of the conclusions or sanctions presented by the DRC in fulfillment of the Global Board of Directors' fiduciary responsibilities; rather the Global Board of Directors should review the conclusions and sanctions, but should comport themselves in a manner of exercising such responsibilities from an oversight and validation perspective.

There shall be no further appeal on this matter.

## **Section IV: Category III Jurisdiction ("Global Dispute")**

This section contains an overview of the Category III dispute resolution process. A step by-by-step guide with timeline information follows later in this document.

Category III disputes shall be filed with the Global Board of Director's Chair who shall promptly forward a copy of the complaint to the members of the DRC. The complaint shall be reviewed and adjudicated by the DRC. The DRC for this dispute shall be chaired by the Governor from the Region which is not a party to the dispute. If there is more than one Governor from regions which are not parties to the dispute, the Governor from a region which is not a party to the dispute with the longest serving DRC tenure shall chair the DRC for this dispute. If all remaining Governors from regions which are not a party to the dispute have



equal tenure, then the Global Board of Directors Chair shall select one of those remaining Governors to chair the DRC for this dispute.

If the dispute is filed against a member of the Global Board of Directors, the Governor from a region which is not a party to the dispute with the longest serving DRC tenure shall chair the DRC for this dispute. If all remaining Governors from regions which are not a party to the dispute have equal tenure, then the Global Board of Directors Chair shall select one of those remaining Governors to chair the DRC for this dispute.

If the Chair of the Global Board of Directors is a party to the dispute, or if the dispute involves a member from any of his or her companies, or if a potential conflict of interest may reasonably exist involving the Global Chair and any parties to a given conflict, then the Vice-Chair of the Global Board of Directors shall assume all responsibilities of the Global Chair as it relates to this dispute, i.e. receiving the complaint, selecting a Governor to chair the DRC, etc.

Following an impartial review of the facts of a properly and timely filed dispute, the DRC shall present its findings, conclusions and recommended sanctions, if any, to the Global Board of Directors review committee (which shall be chaired by the Chair and which shall consist of the Global Board of Directors' Chair, Vice-Chair and one founding member of the Global Board of Directors selected by the Chair, from a region which is not a party to the dispute), under the prescribed timelines detailed herein. The Global Board of Directors review committee shall review the findings, conclusions and recommended sanctions, if any, and shall present a summary of the issues, findings, conclusions and sanctions, including the committee's own non-binding recommendations as to whether to accept, modify or reject those findings, conclusions and sanctions, at the next meeting, regular or special, of the Global Board of Directors where a quorum is present; however, the Global Board of Directors may also reject or modify the conclusions and sanctions, if any, at the next meeting, regular or special, of the Global Board of Directors where a quorum is present by a vote in favor of such action by at least 67% of eligible voting members, an Interdiction Motion.

The DRC's conclusions and any recommended sanctions are divisible; in other words, the Global Board of Directors may accept, authorize and approve the conclusions (following the procedure described above), but modify or reject any or all proposed sanction(s).

Except when the parties to the complaint are both regional operating boards, in the interests of protecting the privacy of the parties as much as is practical, the full report of the DRC should typically only be presented to the Global Board of Directors' review committee. As an ordinary and usual standard of practice, the Global Board of Directors' review committee, via the Global Board of Directors Chair, shall summarize the issues, findings, conclusions and sanctions presented by the DRC in regards to the matter rather than provide the entire report from the DRC; however the Global Board of Directors Chair shall have the sole discretion to disclose additional information, including the full report, if he or she reasonably believes that such disclosure is materially necessary for the Global Board of Directors to fairly assess and vote on the conclusions and proposed sanctions regarding the matter.



It is generally recognized that any such expanded disclosure of information to the entire Global Board of Directors beyond a summary report should be restricted to materially necessary information and should be applied with great deference in weighing the consequences of the resulting corresponding reduction in the privacy for the parties involved.

However, when the parties to the complaint are both regional operating boards, then the presumption shall be that the full findings of the DRC shall be shared with the Global Board of Directors.

Great deference should be given to the work-product of the DRC, specifically their resultant conclusions and any recommended sanctions as the committee represents regional governing board selected and qualified Governors from each of the regions. The intent of the formation of the DRC is allocate the fact-finding process to such representatives of each region for efficiency, competency and equity. To re-litigate the issues at hand following presentation to the Global Board of Directors review committee by the members of the Global Board of Directors review committee, absent a significant error in process or understanding by the DRC, undermines and frustrates the purpose and process of the DRC. This in no way should be interpreted to construe a complete restriction on the question and answer process or debate of the conclusions or sanctions presented by the DRC in fulfillment the fiduciary responsibilities of the members of the Global Board of Directors review committee; rather the members of the Global Board of Directors review committee should review the conclusions and sanctions, but should comport themselves in a manner of exercising such responsibilities from an oversight and validation perspective.

There shall be no further appeal on this matter.

## **Section V: Governors**

Each MSPA region shall appoint a Governor who shall competently adjudicate Category I disputes in the region, shall serve as the region's participant on the DRC and shall fulfill the requirements of the Governor's job description. Each region shall provide the same MSPA job description to its Governor, a copy of which is included in the appendix of this document.

Governors and the DRC are to keep all information related to their investigations confidential, with access to such information provided only to the relevant parties, including, at conclusion, the regional governing board or Global Board of Directors, appropriate.

A Governor must recuse himself or herself from any investigation which presents a conflict of interest. In the instance of Category I disputes, the appropriate regional governing board shall be the final arbiter as to whether there is significant danger that a conflict of interest may exist with the Governor and, if so, the regional governing board shall be tasked with finding a temporary replacement for the Governor for that investigation and dispute resolution.

In the instance of Category II and Category III disputes, the Global Board of Directors shall be the final arbiter as to whether there is significant danger that a conflict of interest may exist with any Governor on



the DRC, and, if so, the Governor's regional governing board shall be tasked with finding a temporary replacement Governor for any current Governor for that investigation and dispute resolution. In the instance of a vote to temporarily replace a Governor on the DRC for a particular investigation and dispute resolution and to approve a temporary replacement, both votes shall require at least a two thirds (2/3) majority of votes where a quorum has been established for passage.

Great caution should be taken when adjusting the process to consider temporarily replacing a Governor for a particular investigation and dispute resolution due to a potential conflict of interest. A dispute involving a Governor's regional operating board or a member from his or her region is not automatically presumptive of a conflict of interest. A reasonable, articulable belief that a significant danger of a conflict of interest potentially and exists or is reasonably likely to exist, which would materially impact the fair process of the procedure should be present to justify the temporary replacement of a Governor in process of participating in a particular investigation and dispute resolution.

It is critical to the integrity of the process that each Governor is able to fulfill his or her duties free from any political pressure from his or her regional operating board or any other MSPA-related entity. No MSPA member, including an MSPA regional governing board, may place any hardship upon a Governor, or in any other way interfere or attempt to interfere with the Governor's obligations of fairness, impartiality and confidentiality in carrying out his or her duties, at any time, including at any point after an issue has been presented for review and adjudicated. Any such breach of this provision would in itself be a violation of the MSPA Codes

## **Section VI: Requirements for DRC Recommendations to the Global Board of Directors**

In the event that the DRC is not unanimous in its findings, conclusions and recommended sanctions, if any, during its discovery process and deliberations, the DRC will report to the Global Board of Directors such conclusions and recommended sanctions, if any, which are supported by the simple majority of the Governors of the DRC, which shall then become the official recommendations of the DRC.

For clarity, when the DRC issues its findings, conclusions and sanctions, these decisions and subsequent declaration of such shall be based upon the simple majority, or greater, opinion of the DRC. The DRC shall never disclose the individual voting or perspectives of each Governor to anyone outside of the DRC in order to protect the integrity of the process, to promote a fair and unfettered dialogue among the Governors which is free from regional political pressures, and to protect each Governor from any potential retaliation from the home regional governing board were a Governor to impartially take a point of view which is not in alignment with that of their own region's regional operating board of directors. As such, regardless of whether there are unanimous findings, conclusions and recommended sanctions on any given issue, so long as there is a simple majority of Governors agreeing with any findings, conclusions and sanctions on any issue, the DRC shall term the outcome as "a majority of the DRC".

The Global Board of Directors Chair shall break any ties which may deadlock the DRC if there are an even number of Governors; however, should one region's Governor be unable to participate in a dispute

resolution case resulting in a potential tie, that Governor's region should provide a competent substitute Governor, rather than the Global Board of Directors Chair filling the vacancy. The Global Board of Directors Chair should only break a tie when there is an even number of MSPA regions represented and participating on the DRC for a particular investigation and dispute resolution.

## Section VII: Conflict of Interest

If a party to a dispute claims that a conflict of interest exists or may reasonably exist with any Governor who is to adjudicate the dispute, solely or as part of the DRC, that party shall have ten (10) calendar days to notify the President of the regional governing board (in the case of Category I disputes) or the Chair of the Global Board of Directors (in the instance of Category II and Category III disputes) from the date of filing the initial complaint of a request, including supporting details for the request, to replace the Governor in question. The President or Chair, as the appropriate case may be, shall be the sole judge as to whether a conflict does in fact exist or may reasonably exist, and shall immediately name a replacement Governor to adjudicate the current dispute only.

Additionally, if any individual is the subject of a dispute, is an employee of a company which is the subject of a dispute, and is also a member of a regional governing board or the Global Board of Directors, that individual may not be attend any presentation of the findings, conclusions or recommended sanctions, or subsequent deliberations and discussions, involving the dispute to which that individual may be associated with, being made to that regional governing board or the Global Board of Directors, until such conversations have reached a conclusion. This is required as a presumed bias and conflict of interest would naturally exist.

## Section VIII: Additional Category III Violations

In addition to complaints for violations of the **MSPA Common Codes of Professional Standards and Ethical Conduct**, MSPA regional governing boards may allege a complaint against another regional governing board or a Global Board Member for any of the following:

- Violations of Omission of Obligation: One or more material violations of a regional governing board or Global Board Member for failing to implement, administer, comply with, police, protect or perform an agreed upon MSPA obligation, program or policy properly voted on and approved by the Global Board of Directors.
- Violations of Bylaws: One or more material actions undertaken by a regional governing board or a Global Board Member which are contrary to the MSPA Global Bylaws or approved policy.
- Violations of Decorum and Comportment: A violation regarding a material and unreasonable breach of compliance with the MSPA Values Statement or a pattern of behavior which is inconsistent or in contrast with the MSPA Values Statement.

## Section IX: Sanctions for Category I, Category II and Category III Violations

Any member or individual who is found to be in violation of the **MSPA Common Codes of Professional Standards and Ethical Conduct** or the MSPA Values Statement may receive one or more applied sanctions as a consequence of each violation, or violations, collectively. Sanctions shall be determined on a case by case basis, and shall depend on the severity, context, and number of the violations, as well as any mitigating factors. Other factors to be taken into consideration include whether such violations constitute a pattern that establishes the member or individual to be incapable or unwilling to comply with the **MSPA Common Codes of Professional Standards and Ethical Conduct** or MSPA Values Statement. No sanctions will be imposed while a dispute is under appeal.

There are four possible applications of sanctions for violations:

1. Censure (issuance of a strong official disapproval statement).
2. Suspension for a determined time period (bar from normal membership privileges, such as advertising through MSPA publications or participation in MSPA programs/events).\*
3. Expulsion from membership in the Association (permanent loss of membership).\*
4. Remedy of specific performance, wherein the party found to be in violation shall be required to submit to an equitable and reasonable solution customized to the specifics of the violation.

It is recommended that an individual found who has been suspended or expelled from MSPA, as well as any employees or owners of a company which has been suspended or expelled from MSPA, are ineligible for future MSPA board service for a period of a minimum of three (3) years.

## Section X: Dispute Resolution Process and Timelines for Category I Complaints

This section shall outline the step-by-step protocols for the filing of a Category I complaint. All written correspondence should be sent via email for date/stamping. Prescribed timelines are included in brackets [].

1. Submit Complaint via email to the region's Executive Director. [The complaint must be received no later than 30 days from the date of discovery of the alleged violation.]
2. The Executive Director informs Complainant that the complaint has been received and forwards the complaint to the region's Governor for follow up and to the region's President for reference. [Upon receipt.]
3. The Governor reviews the complaint and ascertains if the material constitutes evidence of one or more violations against the MSPA Common Codes of Professional Standards and Ethical Conduct. The Governor clarifies any unclear situation. [No later than 7 calendar days.]

4. The Governor begins a detailed investigation by notifying the person against which the complaint has been lodged (responding party) of the alleged violation and requests a written response to the allegation within 30 days. [Simultaneous with above.]
5. The responding party submits a response which must be received within 30 calendar days of notice by the Governor. If no response is submitted within that time frame, summary judgment shall be awarded to the complainant. [No later than 30 calendar days.]
6. If the materials do not show reasonable evidence of a possible violation, both parties are notified by the Governor and a copy is sent to the Executive Director. [No later than 7 calendar days.]
7. If the materials show reasonable evidence of a possible violation, the Governor shall conduct a detailed investigation, meeting via phone (recorded unless the parties refuse) and investigating by any appropriate means, preferably by writing, requesting all relevant documentation, to determine the validity of the complaint and to recommend final action. The Governor's first duty is to attempt to mediate a solution mutually agreeable to the parties, offering suggestions and resolutions to resolve the complaint. [No later than 60 calendar days.]
8. If a mediated resolution cannot be achieved within 60 calendar days, the Governor shall make a final determination of the validity of the violation(s) and a recommendation regarding whether to impose specific sanctions, or any other course of action to be implemented, to the regional governing board at their next regular or special meeting where a quorum has been established. [The next board meeting of the regional governing board following a decision.]
9. The regional governing board may accept, modify or reject the conclusions or the sanctions presented by the Governor through an Interdiction Motion. The presumption is that, barring the presentation of any substantial and material new evidence not previously known to the Governor, or any substantial errors or malfeasance on the part of the Governor, the conclusions shall be accepted and approved by the regional governing board. The presumption is that, provided the recommended sanctions, if any, are reasonable in context with the regional governing board's acceptance of the conclusions, the recommended sanctions shall be accepted and approved by the regional governing board and promptly implemented. [At the next regional governing board meeting.]
10. The Governor shall issue a final written statement regarding the findings, conclusions and sanctions, if any, that have been accepted and approved by the regional operating board and provide such to the Executive Director. [No later than 3 calendar days following regional governing board meeting.]



11. The Executive Director shall deliver the Governor's final written statement to the parties and provide appellate information. [No later than 7 calendar days following regional governing board meeting.]
12. The losing party may submit a written appeal disputing any findings, conclusions and sanctions and outlining all reasons for such within 14 calendars of delivery of the final written statement to the Executive Director. [No later than 14 calendar days from receipt of the notification from the Executive Director on the final written statement.]
13. The Executive Director shall share this appeal with the Governor and President of the regional operating board. [Upon receipt.]
14. The Governor shall issue a written advisory opinion to the board President as to whether in his or her opinion the information contained in the appellate brief is sufficient to modify any of the findings, conclusions and sanctions, if any, and the President shall present both the written appeal and the Governor's advisory opinion at the next regional governing board meeting for final resolution. [No later than 3 calendar days prior to the next regional governing board meeting.]
15. The regional governing board shall review the Governor's written advisory opinion regarding the losing party's appeal as well as the appellate brief itself in order to determine if there is any new relevant and material information which should alter the prior findings, conclusions and sanctions, if any. Great deference should be given to the Governor's advisory opinion; however the regional governing board retains the final authority to re-affirm, modify or vacate any or all of the prior findings, conclusions or sanctions, if any. [At the next regional governing board meeting.]
16. The Executive Director shall notify the parties as to whether the original findings, conclusions and sanctions, if any, have been upheld or modified. The Executive Director shall also notify the parties that this is a final decision and cannot be appealed unless there is a reasonable argument that a material breach of this process has occurred, in which case a last appeal can be made to the Global Board of Director's DRC on the merits of the process, not the issues of the dispute. [No later than 7 calendar days following regional governing board meeting.]
17. A DRC review request must be received by the Executive Director of the region no later than 7 calendar days from issuing the notification of the appellate review. [No later than 7 calendar days.]
18. The Executive Director shall notify the Global Board Directors Chair that a DRC review has been requested and the Chair shall immediately forward such information to the DRC Governors. [Upon receipt]



19. The Governor of the region where the dispute has originated shall share all files, recordings and other information with the rest of the DRC on this dispute to determine if a material breach of the process has occurred; and if so, to re-evaluate the merits of the original dispute. [No later than 7 calendar days.]
20. If the DRC finds no breach of process, the dispute is closed. If the DRC finds a breach of process, then the DRC shall re-open the issues of the case and shall deliver the final decisions on findings, conclusions and sanctions, if any. The DRC notifies the Chair of the Global Board of Directors of their findings. [As soon as the DRC reaches its conclusions, but in no instance more than 60 days from provision of dispute materials by the regions' Governors to the DRC, unless granted an extension by the Global Board of Directors.]
21. The Global Chair shares the findings, conclusions and sanctions of the DRC with the Global Board of Directors and the Global Board of Directors decides whether to accept, modify or reject the conclusions and sanctions. [Next regularly scheduled or special called meeting of the Global Board of Directors].
22. The Global Chair, on behalf of the Global Board of Directors, shall direct the relevant regional governing board, through its Executive Director, to communicate the approved conclusions, and to implement any recommended sanctions resolved by the DRC and authorized and approved by the Global Board of Directors. [Within 3 business days of the approved decision]
23. The Executive Director shall notify the parties and the regional governing board of the ultimate resolution of the dispute, and implements any required sanctions. [Upon receipt of DRC decision.]
24. The final results are published in MSPA media (if the member's membership rights are suspended for a period of time or if the member is expelled from the Association). [Upon receipt of DRC decision.]

## **Section XI: Dispute Resolution Process and Timelines for Category II and Category III Complaints**

This section shall outline the step-by-step protocols for the filing of a Category I complaint. All written correspondence should be sent via email for date/stamping. Prescribed timelines are included in brackets [ ].

1. Submit complaint via email to the Global Board of Directors Chair. [The complaint must be received no later than 30 days from the date of discovery of the alleged violation.]
2. The Global Board of Directors Chair informs the Complainant that the complaint has been received and forwards the complaint to the DRC for follow up and to the Global Board of Directors for reference (and to the relevant Executive Directors and regional governing board Presidents in the instance of a Category II dispute). [Upon receipt.]

3. The DRC reviews the complaint and ascertains if the material constitutes evidence of one or more violations of the MSPA Common Codes of Professional Standards and Ethical Conduct or one more Category III violations. The DRC clarifies any unclear situation. [No later than 7 calendar days.]
4. The DRC begins a detailed investigation by notifying the person or board against which the complaint has been lodged (responding party) of the alleged violation and requests a written response to the allegation within 30 days. [Simultaneous with above.]
5. The responding party submits a response which must be received within 30 calendar days of notice by the DRC. If no response is submitted within that time frame, summary judgment shall be awarded to the complainant. [No later than 30 calendar days.]
6. If the materials do not show reasonable evidence of a possible violation, both parties are notified by the DRC and a copy is sent to the Global Board of Directors Chair. [No later than 7 calendar days.]
7. If the materials show reasonable evidence of a possible violation, the DRC shall conduct a detailed investigation, meeting via phone (recorded unless the parties refuse) to determine the validity of the complaint and to recommend final action. The DRC's first duty is to attempt to mediate a solution mutually agreeable to the parties, offering suggestions and resolutions to resolve the complaint. [No later than 60 calendar days.]
8. If a mediated resolution cannot be achieved within 60 calendar days, the DRC shall make a final determination of the validity of the violation(s) and a recommendation regarding whether to impose specific sanctions, or any other course of action to be implemented, to the Global Board of Directors review committee. [Within 3 calendar days of the conclusion of the 60 calendar day window.]
9. The Global Board of Directors review committee shall review the findings, conclusions and recommended sanctions, if any, and shall present a summary of the issues, findings, conclusions and sanctions, including the committee's own non-binding recommendations as to whether to accept, modify or reject those findings, conclusions and sanctions, at the next meeting, regular or special, of the Global Board of Directors where a quorum is present. [The next meeting of the Global Board of Directors following a decision.]
10. The Global Board of Directors may accept, modify or reject the conclusions or the sanctions presented by the DRC through an Interdiction Motion. The presumption is that, barring the presentation of any substantial and material new evidence not previously known to the DRC, or any substantial errors or malfeasance on the part of the DRC, the conclusions shall be accepted and approved by the Global Board of Directors. The presumption is that, provided the recommended sanctions, if any, are reasonable in context with the Global Board of Director's



acceptance of the conclusions, the recommended sanctions shall be accepted and approved by the Global Board of Directors and promptly implemented. [At the next Global Board of Directors meeting.]

11. The DRC shall issue a final written statement regarding the findings, conclusions and sanctions, if any, that have been accepted and approved by the regional operating board and provide such to the Global Board of Directors Chair. [No later than 3 calendar days following the Global Board of Directors meeting.]
12. The Global Board of Directors Chair shall deliver the DRC's final written statement to the parties (and to the relevant Executive Directors and regional governing board President of the two regions in the instance of a Category II dispute). [No later than 7 calendar days following the Global Board of Directors meeting.]
13. The final results are published in MSPA media (if the member's membership rights are suspended for a period of time or if the member is expelled from the association). [Upon receipt of DRC decision.]

## PART THREE: Appendix

### Governor Job Description and Qualifications

**Overall Duties:** Each MSPA region is required to have a Governor on their board who shall serve as the primary administrator of the region's dispute resolution process, and who shall serve as the region representative adjudicator on the Global Board of Director's Dispute Resolution Council (DRC). Additionally The Governor shall support his or her regional governing board as the parliamentarian of board proceedings, bylaw interpretation and basic legal principles; serve as the custodial historian of the region; and assume any other related duties as agreed upon between the Governor and the regional governing board. The Governor is a hired employee of the board and not an elected position; therefore the Governor does not have a board vote on his or her regional governing board.

**Specific Duties:** Governors across all MSPA regions shall provide the following specific duties to their regional board:

- Administer the dispute resolution process for the region and on the DRC in accordance with the regulations of **MSPA Common Codes of Professional Standards and Ethical Conduct**.
- Counsel the board as to the requirements of existing board bylaws/house rules/guidelines and draft adaptations and amendments under the direction of the regional governing board.
- Provide basic legal parameters as known relative to any board issues.
- Draft/amend policy documents as needed under the direction of the regional governing board.
- Provide guidance on any parliamentarian issues.
- Respond to ethics questions raised by potential and existing members.
- Maintain historical relevant records for the region as required.
- Create an archive of frequently asked questions including referring responses as well as documentation of previous complaints and outcomes.
- Participate at board meetings and the annual regional conference.
- Additional activities within the context of the position upon agreement.

**Qualifications:** The following qualifications outline the core qualifications of the Governor:

- Superior verbal and writing skills.
- Outstanding attention to detail and listening skills.
- The ability to impartially and fairly review facts in order to deliver objective and appropriate resolutions to disputes.
- The ability to work well with other Governors of foreign nationalities for the benefit of the DRC.
- A thorough understanding of the mystery shopping industry.
- Competently able to work with technologies and common office software.
- A high level of availability to be able to respond in a timely manner to unforeseen requests corresponding to the Specific Duties outlines above.
- A basic knowledge of Robert's Rules of Order and general legal concepts is helpful.

**Commitment and Remuneration:** The Governor is a hired employee of the board and not an elected position. The Governor may be expected to work +/- 8 hours per month under the following terms and conditions:

- Invoices are paid based on record of working hours.
- Travel expenses for the official regional board meetings are reimbursed or covered; only actual expenses like flight ticket (economy class), train ticket, hotel, meals, etc. No travel hours.
- The amount of compensation, if any, beyond reimbursement shall be determined by each regional governing board.



## MSPA Common Codes Violation Complaint

Please use this form to file a formal complaint against an MSPA Member. Only complaints that are properly and timely filed will be investigated. This completed form must be signed by the filing member.

*I believe a violation of the MSPA Common Codes of Professional Standards and Ethical Conduct has been made by the following MSPA member:*

**1. Member Information:**

Full Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

Title: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State : \_\_\_\_\_

Zip Code: \_\_\_\_\_ Country: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**2. Nature of Member's Business (select only one):**

End User/Manufacturer

Research Company

Data Collection

Other (please specify) \_\_\_\_\_

**3. Ethical problem or issue (attach more information if needed):** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**4. What facts have a bearing on this ethical issue?** Explain the agreement between parties, written letters, telephone calls, attorneys/lawsuit, etc. if applicable. Attach any relevant documentation

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



5. **Other Considerations:** Provide other pertinent information that the committee should consider.

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6. **Recommendation for Action:** From your perspective, what do you think would be the most appropriate action, based upon MSPA enforcement procedures? (select only one)

- Censure                       Suspension                       Expulsion
- Other (please specify) \_\_\_\_\_

7. **Authorization:** I attest by signing this document that the information included is truthful and accurate to the best of my knowledge and that I am requesting that the appropriate Governor for my region or Dispute Resolution Council investigate this allegation of a violation of the **MSPA Common Codes of Professional Standards and Ethical Conduct**.

**Full Name:** \_\_\_\_\_

**Company Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Street Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State :** \_\_\_\_\_

**Zip Code:** \_\_\_\_\_ **Country:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Nature of your Business:** \_\_\_\_\_

**Signature (REQUIRED):** \_\_\_\_\_ **Date:** \_\_\_\_\_

Please print this form and sign it. Your signature is required to validate this request.

Once completed, file this complaint:

**Americas:** by email to [mspa@hqtrs.com](mailto:mspa@hqtrs.com)

**Asia Pacific:** by fax to **00 91 124 438 1203** or by email to [contact-ap@mspa-ap.org](mailto:contact-ap@mspa-ap.org)

**Europe-Africa:** by email to [contact-eu@mspa-eu.org](mailto:contact-eu@mspa-eu.org)



# MSPA Common Codes Violation Complaint Appeal

## I. SUMMARY APPEAL INFORMATION

Date of Original Decision:

Date Notice Decision Was Received:

The Decision was Issued By:

Details of Decision (If you have a written decision, please attach it with this form upon submission. If not, provide extensive details of the original issue and the decision rendered or completed proceedings that you appealing):

## II. APPELLANT (Details of party seeking to appeal the decision.)

Company:

Full name:

Address:

Daytime Telephone:

Email:

## III. Please list the information below of any representative you want copies of the correspondence.

### REPRESENTATIVE DETAILS (IF APPLICABLE)

Company:

Full name:

Address:

Daytime Telephone:

Email:

## IV. RESPONDENT (Details of the other party to the original proceedings. For multiple respondents add the same information for each on this sheet or attach the same details on a separate sheet.)

Company:

Full name:

Address:

Daytime Telephone:

Email:

## V. GROUNDS FOR APPEAL

### A. Items Challenged on Appeal

List the findings, conclusions, or sanctions made in the original process which you are appealing for review. Be specific and use as much detail as possible. *Use a separate sheet if needed.*

## **B. Grounds of appeal**

List below the specific arguments that you are presenting in support of the appeal. Each point should be detailed with facts to support your argument. Not liking the outcome without supporting arguments to substantiate this appeal is insufficient. *Use a separate sheet if needed*

## **C. Results desired by the Appellant**

List below the results you desire. Use a separate sheet if needed. It is not enough simply to say the decision was not fair and equitable. Describe in detail why the process, findings, conclusions and/or sanctions were not fair and/or equitable.

## **VI. Initial Decision**

- A.** What evidence did you give in the original investigation?
- B.** What documents did you produce during the original investigation? *Attach copies with this form if possible.*
- C.** What evidence did the other party provide in the original investigation?
- D.** What documents did the other party produce during the original investigation? *Attach copies with this form if possible.*
- E.** What evidence should the original investigation have given more weight to and why?
- F.** Describe any significant new evidence now available that was not reasonably available at the time of the original investigation?
- G.** ***If there is new evidence***, explain why the new evidence, unavailable at the time of the original investigation, is significant and could have made a difference to the decision.
- H.** ***If there is new evidence***, explain why the new evidence, unavailable at the time of the original investigation, was not presented previously.

## **VII. Attach any additional evidence/documents/statements that you now seek to produce as part of this appeal.**

Signed by: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attested by: \_\_\_\_\_

Notarized