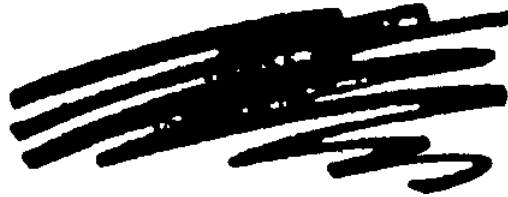




ESTA



*ENTERTAINMENT SERVICES &
TECHNOLOGY ASSOCIATION*

CODE OF CONDUCT

AND

PROCEDURE FOR FILING

AND PROCESSING COMPLAINTS

Originally adopted January 1999 and amended January 2003

Entertainment Services and Technology Association
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The ESTA Code of Conduct

It is the intent of this Code of Conduct (the “Code”) to provide standards for the professional and ethical conduct of ESTA’s members and to foster respect for the integrity, expertise and reliability of all ESTA members.

The members of the Association have pledged to honor and abide by the Code as adopted by the Entertainment Services and Technology Association, to ensure the public of uniform high standards in all dealings with members of the Association.

The Committee of the Association charged with the enforcement of the Code meets regularly to consider alleged violations. Violators are subject to various sanctions, including expulsion from the Association.

The Articles of the Code signify the dedication of the members of the Association to maintain the highest level of ethics and responsibility in their relationship with the public, other members and customers. Inherent in this pledge are these principles:

Article 1: To abide by all applicable laws, codes and regulations, and protect the public against fraud and unfair trade practices.

Article 2: To maintain the highest level of safety for all products and services, and support the development of industry standards and safe practices.

Article 3: To provide a safe working environment.

Article 4: To present products and services honestly without misrepresentation.

Article 5: To be responsive to and available for customers before, during and after the sale.

Article 6: To refrain from discriminatory practices in dealing with customers and associates.

Article 7: To share knowledge, expertise and skills to advance the industry while respecting the confidentiality of customers and associates.

Article 8: To recognize the rights of others to compete for business.

Article 9: To fully disclose common or related ownership of entities involved in any competitive bid process.

Article 10: To fully disclose the terms and conditions of all agreements or undertakings to all relevant parties.

Article 11: To follow through and complete any lawful agreement.

Article 12: To support and honor the Association by taking a pro-active role in ESTA activities and promoting the Association to the industry.

The Association has an Ethics Committee which reviews infractions of the letter and intent of this Code of Conduct. It is the responsibility of all members to respond to any Complaint of violation filed with the Association and participate in all processes and procedures of the Committee charged with the enforcement of the Code with respect to that Complaint. A member who violates this Code of Conduct will be faced with disciplinary action and/or expulsion from the Association.

Procedure for Filing and Processing Complaints

1. General

This procedure covers the filing of complaints that allege violations of the ESTA Code of Conduct, and the processing of complaints by the Ethics Committee. The purpose of these procedures is solely to secure conformity and compliance with the ESTA Code of Conduct.

There are three different bodies referred to within this document: the Review Panel, the Ethics Committee and the Hearing Panel. The makeup of these bodies is as follows:

Review Panel: President, Executive Director, and the Chair of the Ethics Committee (Immediate Past President)

Ethics Committee: Chair, 3 Dealer Directors, 3 Manufacturer Directors, 3 Affiliate Directors

Hearing Panel: Chair who appoints 1 Dealer Director, 1 Manufacturer Director, 1 Affiliate Director for each case heard

In the absence of the Immediate Past President or in the event of his or her inability or refusal to act as Chair of the Ethics Committee, the then-current President shall appoint a person to act as and perform the duties of the Chair of the Ethics Committee for a term not to exceed one (1) year (the "Appointee"). When the Appointee shall so act as Chair of the Ethics Committee, he or she shall have all the powers of and be subject to all of the restrictions upon the Chair of the Ethics Committee. Any person serving as a member of the Review Panel, the Ethics Committee or a Hearing Panel is required to promptly disclose any commercial interest which they may have in the outcome of any ethics complaint or proceeding, including, without limitation, any direct or indirect ownership interest in any party to the complaint and any pending dispute that the member has with any party to the complaint. Any member of the Ethics Committee, Review Panel or Hearing Panel who has an interest in the outcome of a proceeding shall immediately recuse himself or herself from the review or discussion of the matter.

The Ethics Committee cannot and does not make any awards of damages or other monetary relief.

All complaints and correspondence will be forwarded to the ESTA Administrative Office.

2. Complaint Procedure

A. Complaint

- i. Complaints may be filed by members of the Association and the general public, who or which allege a violation of the ESTA Code of Conduct by a member of the Association.
- ii. All complaints must be in writing, sent to the Ethics Committee at the ESTA Administrative Office and received at the ESTA Administrative Office within two (2) years after the date on which the event forming the basis for the allegations in the Complaint occurred. The Committee requires that the Complainant make use of the ESTA Complaint Form, which is available from the ESTA Administrative Office.
- iii. The Complainant must identify, in the Complaint, with specificity, the party against whom the Complaint is made, the specific article(s) of the ESTA Code of Conduct alleged to have been violated, and the acts or conduct which the Complainant alleges violates the ESTA Code of Conduct, including a brief summary of facts and relevant dates relating to such acts or conduct.
- iv. The Complaint must be accompanied by copies of those agreements, correspondence and documents which are referenced in the Complaint or which are relevant to Complainant's allegations.

B. Committee Procedures

- i. Upon receipt of the Complaint Form and all relevant documents, the case will be assigned a number and submitted to the Review Panel.
- ii. The Review Panel will review the Complaint to determine whether there is substantial evidence to believe that a violation of the Code of Conduct has occurred.
- iii. If a determination is made by the Review Panel that (a) there is no substantial evidence to support the violation alleged in the Complaint, (b) the alleged conduct, if proven, would not constitute a violation of the Code of Conduct, (c) the Complaint was not timely filed or (d) the Complaint has been improperly or not fully completed, no further action will be taken on the Complaint and a copy of the Complaint will be returned to the Complainant with a letter advising Complainant that no further action will be taken on the Complaint and a brief explanation as to why no further action will be taken. If no further action is taken due to the Complaint having been improperly or not fully completed, then the Complainant will be permitted to correct the Complaint and resubmit it within sixty (60) days after its return to Complainant; if the Complaint shall not be timely corrected and resubmitted, then Complainant shall be deemed to have waived its right to resubmit its Complaint and the Review Panel and Ethics Committee shall have no further obligation to review or act upon such Complaint.
- iv. If the Complaint has been fully and properly completed and the Review Panel concludes that, based on the Complaint, as filed, there is substantial evidence to support the violation alleged in the Complaint and the alleged conduct, if proven, would constitute a violation of the Code of Conduct, then the Review Panel shall give written notice as provided herein, via certified mail, with return receipt requested, to the person or entity against whom the Complaint was brought (the "Respondent") at the Respondent's most recent address appearing on ESTA's records. Such notice shall advise Respondent that a Complaint has been filed and shall establish a date (which is not greater than thirty (30) days following the date on which said notice is mailed to Respondent) by which Respondent's written Response to Complaint (the "Response") must be filed with ESTA and shall include a copy of the Complaint, together with all material submitted in support of the Complaint by Complainant, a copy of ESTA's Response to Complaint Form and a copy of ESTA's Code of Conduct and Procedures for Filing and Processing Complaints. A copy of said notice to Respondent shall also be mailed to Complainant.
- v. If no written response is received from the Respondent within thirty-five (35) days, the Committee may treat the alleged facts and allegations as having been admitted by the Respondent. The case will then proceed to the hearing level. It is, however, within the sole and absolute discretion of the Review Panel to allow, upon written request to the Review Panel, one (or more) extensions of the time in which a Respondent is required to file its Response. The maximum amount of time that may be granted for any time extension is sixty (60) days.
- vi. After a Response is received from the Respondent, the matter will be assigned to a Hearing Panel consisting of three members of the Committee and the Chair (the "Hearing Panel"). A copy of the Response will be sent to the Complainant, and a notification of the hearing date and time will be sent to both parties.
- vii. Once the hearing is placed on the Committee's agenda, both the Complainant and Respondent will be given an opportunity to participate, and be represented by their respective counsel, on a teleconference with the assigned Hearing Panel. Either the Hearing Panel or the Respondent shall have the right, upon written notice, to schedule a face-to-face hearing at such time and in such location as the Hearing Panel shall specify. Failure of the Respondent to participate, unless excused in advance by the Hearing Panel, may result in a finding against the Respondent. The Hearing Panel may notify the membership of the Respondent member's refusal to participate in the hearing process, and if a violation is found, will return a decision of no less than a Level 2 sanction.

At the hearing, the Chair will allow each party a fixed amount of time to state its case and offer clarification of any presented evidence. The Hearing Panel will conduct a question/answer session and each party will be given a specific time for closing arguments prior to being dismissed. The Hearing Panel will meet in executive session immediately following the conclusion of the hearing to consider a decision.

- viii. All decisions and actions of the Hearing Panel shall be by majority vote. In the event of a tie which cannot be resolved by the Hearing Panel, the Hearing Panel shall be deemed to have made a finding that no violation has occurred.

3. Sanction Levels

- A. After the hearing, the Hearing Panel will determine whether the Respondent has violated the Code of Conduct. If the Hearing Panel determines that no violation has occurred, such determination shall be committed to writing, signed by all members of the Hearing Panel and forwarded to the Chair of the Ethics Committee. The Chair of the Ethics Committee shall notify Complainant and Respondent of the Hearing Panel's decision and no further action shall be taken by the Ethics Committee. If a violation is found, the Hearing Panel will recommend any of the following sanctions:
 - i. Level 1: A finding of violation transmitted in writing solely to the Complainant and Respondent with notice given to the Committee.
 - ii. Level 2: A finding of violation transmitted to the membership with notice given to the Committee.
 - a. Notice will be given to the membership and will contain the name of the Respondent, the name of the Complainant and a brief explanation of the charge and finding. The summary will be provided by the Hearing Panel.
 - iii. Level 3: A finding of violation with recommendation to the Committee to suspend a member's privileges from the Association for a specific time not to exceed twelve (12) months. A simple majority vote of the Committee shall be required in order to suspend a member's privileges. The decision shall be effective, and the suspension period will begin, on the date the Committee votes to affirm the Hearing Panel's recommendation to suspend.
 - a. Notice of the Committee's decision will be given to the membership and will contain the name of the Respondent, the name of the Complainant, a brief description of the facts upon which the suspension is based, the effective dates of such suspension, and the Code section(s) relied upon for the decision.
 - b. Following the conclusion of the suspension, a notice will be sent to the membership outlining the new status of the member.
 - iv. Level 4: A finding of violation with recommendation to the Committee for expulsion from the Association. A two-thirds vote of the Committee shall be required in order to expel a member, and only after the respondent is given the opportunity to address the Committee with or without counsel. The decision shall be effective on the date the Committee votes to affirm the Hearing Panel's recommendation to expel. Notice of the Committee's final decision to expel shall be given to the membership and will contain the name of the Respondent, the name of the Complainant, a brief description of the facts upon which the expulsion is based, and the Code section(s) relied upon for the decision.
- B. In the event of the imposition of a Level 3 or 4 sanction only, no action will be taken for twenty (20) business days pending an appeal by Respondent in accordance with Section 6 below. After twenty (20) business days, the recommendation of a Level 3 or 4 sanction will go to the Committee for a vote, and if confirmed, the notice would be published.
- C. Upon receipt of a recommendation of the Hearing Panel for the imposition of a sanction, the Chair shall present such recommendation to the Committee for its review and confirmation or rejection.
- D. In the event that the Committee fails to confirm the recommendation of the Hearing Panel, the case will be returned to the Hearing Panel for further review and entry of findings consistent with the determination of the Committee. The minutes of the discussion of the Committee shall be provided to the Hearing Panel for its benefit.

4. Withdrawal

Any withdrawal of the Complaint by the Complainant or agreement by the parties to dismiss the Complaint notwithstanding, the Committee reserves the right to take action on the Complaint. Once a Complaint has been heard and the Committee has found a violation of the Code, settlements made between the parties of the Complaint thereafter will not result in a change of the Committee's finding or the official records of the decision.

5. Appeals

A Level 3 or 4 sanction may be reviewed by the Committee, in its sole discretion, upon a showing of good cause submitted by Respondent on whom the sanction was imposed together with a request for such review, within twenty (20) business days of notification to such party of such decision or recommendation.

- a. The Complainant will be notified of any review granted of such final decision or recommendation and be invited to participate in the review hearing.
- b. If the request for review is granted, the appeal hearing will be held at a mutually agreed upon time. The appeal must be heard within one hundred twenty (120) days from the request for an appeal.
- c. The appeal process will follow the hearing procedure as outlined in 2B vii.

6. Three Level 1 Sanctions Against a Company

In the event three Level 1 sanctions shall be imposed against the same member within any twenty-four (24) month period, and the Review Panel has reviewed and recommended the release of an advisory, then the Committee shall notify the membership of:

- a. The names of the parties to each such Complaint.
- b. The date of the filing of each such Complaint.
- c. A brief statement as to the nature of the charge and finding.

7. Disclosure of Information Regarding Sanctions

- A. Neither the ESTA Administrative office nor any of the concerned parties shall disclose information on complaints that have been sanctioned at Level 1 other than disclosure which is required in order to comply with any law, subpoena, judicial decree, civil investigative demand or other similar process..
- B. Level 2, 3 and 4 sanctions will be acknowledged to a member or agent of a member upon written request. Only the sanction level and the Code of Conduct provision(s) that were violated will be divulged.
- C. Sanctions will not be acknowledged until notification of the sanction has been sent to the membership.
- D. If during the twelve (12) month period preceding any inquiry, the membership shall have been furnished a notice pursuant to paragraph 7 above concerning the subject of such inquiry, a copy of such notice shall be furnished as the response to such inquiry.

Complaint Form Instruction Sheet

How to File a Complaint:

1. Before doing anything, read the ESTA Code of Conduct and the Procedure for Filing and Processing Complaints very carefully.
2. If the basis for your Complaint relates to conduct or relationships between you or your company and the Respondent, you should first attempt to resolve your dispute with the Respondent before filing your Complaint. You should not file a Complaint until you have reached an impasse in your resolution attempts.
3. The Complaint must specify the specific Article or Articles of the Code of Conduct which are alleged to have been violated and must contain a plain and concise statement of the facts supporting the allegation. Such facts shall be set out in chronological order. The Complaint must be accompanied by copies of those agreements, correspondence and documents which are referenced in the Complaint or which are relevant to your allegations.
4. If multiple Articles of the Code of Conduct are alleged to be violated, then each such Article shall appear in the same Complaint.
5. Submit seven (7) copies of the completed form, along with seven (7) copies of all relevant documents, to the ESTA Administrative Office, 875 Sixth Avenue, Suite 1005, New York, NY 10001, Attention: ESTA Ethics Committee.
6. Promptly supply any additional information when requested.

How ESTA Responds:

1. Within ten (10) business days of ESTA's receipt of your Complaint, ESTA will acknowledge receipt of your Complaint and assign a Complaint Number.
2. The Review Panel will review the Complaint to determine whether there is substantial evidence to believe that a violation of the Code of Conduct has occurred.
3. If a determination is made by the Review Panel that a violation did not occur, the Complaint will be returned to the Complainant with such an explanation.
4. If a determination is made by the Review Panel to proceed with the Complaint, the Respondent will be provided with a copy of all materials submitted, a Response Form and a copy of the ESTA Code of Conduct and Procedure for Filing and Processing Complaints. The Committee will require a written response from the Respondent within thirty (30) days.
5. After a Response is received, a Hearing Panel, composed of three members of the Ethics Committee and the Chair, will be selected to hear the case. Both the Complainant and Respondent will be invited to participate in the hearing.

Helpful Hints and Reminders:

ESTA members processing your Complaints are volunteers, so please make their job easier by complying with the following guidelines.

If possible,

1. Attempt to resolve your dispute with the Respondent.
2. Make sure you have reviewed the Procedures for Filing and Processing Complaints thoroughly.
3. Make everything crystal clear. You have been living with this problem and are familiar with all of its aspects, but the Committee will be looking at it for the first time.

Complaint Form Instruction Sheet continued

Helpful Hints and Reminders continued:

4. Include a clear and concise chronology of the events relating to the alleged violation.
5. Number all paragraphs of your Complaint.
6. Number your documents for easy reference and refer to them by these numbers.
7. Collate your seven (7) copies into identical packages.
8. Complaints are considered confidential by ESTA. You should also consider them confidential.

ESTA Code of Conduct — Complaint Form

Important: This form must be completed in its entirety, including Exhibits A and B. Please print or type and mail to the ESTA Administrative Office, 875 Sixth Avenue, Suite 1005, New York, NY 10001, Attention: ESTA Ethics Committee.

The undersigned hereby asserts that there has been a violation of the ESTA Code of Conduct. (See enclosed copy of Code of Conduct.) The particulars follow:

	COMPLAINANT	RESPONDENT
Company		
Street		
City		
State, Zip		
Phone		
Contact Person		

Alleged Code Violation: Articles(s):

Is this Complaint being filed, or has it been previously filed, with any other association or with any judicial, quasi-judicial, arbitration panel or other body? _____ Yes _____ No

If yes, please disclose all details with respect to such filing(s) including the final result or disposition: _____

Give a brief statement of the facts giving rise to to this Complaint. Please also provide a complete detail of the facts on Exhibit A. You may attach additional pages if necessary.

Exhibit A to the Complaint

Statement of Facts

Date of Complaint: _____

Name of Complainant: _____

Name of Respondent: _____

Please give a complete statement of the facts, including efforts to resolve the problem, in chronological order with dates and times. Please number all paragraphs.

Exhibit B to the Complaint

List of Documentation

Date of Complaint: _____

Name of Complainant: _____

Name of Respondent: _____

Please list all supporting documentation below and enclose seven (7) copies of each properly numbered document with this form.

Document No.

Date

Brief Description of Document

ESTA Code of Conduct — Response to Complaint Form

Important: This form must be completed in its entirety, including Exhibits A and B. Please print or type and mail to the ESTA Administrative Office, 875 Sixth Avenue, Suite 1005, New York, NY 10001, Attention: ESTA Ethics Committee.

Respondent Company Name _____

Contact Person _____ Title _____ Phone _____

Please provide your response to the Complaint in the space below and in attached Exhibit A. You should respond to each numbered paragraph of the Complaint. Please list all supporting documentation in attached Exhibit A.

Check one:

- I hereby request a face-to-face hearing with the Hearing Panel.
- I hereby waive the right to a face-to-face hearing with the Hearing Panel.

Exhibit A to the Response Statement of Facts

Date of Complaint: _____

Name of Complainant: _____

Name of Respondent: _____

Please give a complete statement of the facts, including efforts to resolve the problem, in chronological order with dates and times.

Exhibit B to the Response List of Documentation

Date of Complaint: _____

Name of Complainant: _____

Name of Respondent: _____

Please list all supporting documentation below and enclose seven (7) copies of each properly numbered document with this form.

Document No.

Date

Brief Description of Document