

**STATE OF CALIFORNIA
COMPLAINT FORM INSTRUCTIONS**

**~~DEPARTMENT~~ OF BOATING AND WATERWAYS
ENFORCEMENT**

Filling Out the Complaint Form

This version of the California ~~Department~~ of Boating and Waterways Enforcement Division Complaint Form has been enhanced to allow for on-line information entry using Adobe Acrobat Reader 4.0 or greater*. All entries may be typed on-line prior to printing. (Please note that the forms must still be printed and mailed to the Department, as the form requires an original signature.)

To fill out the form, first read the Complaint Form Information section on page 1. On page 2, under “INFORMATION ABOUT YOU,” click on the area just below “NAME (ENTER YOUR FULL NAME)”. A text cursor will appear.

Type the information, and then press the Tab key to advance to the next entry. (You can also use the mouse to select any entry in any order.) Pressing Shift-Tab will allow you to back up to a previous entry. To fill in a check box, press the Space bar. Pressing the Space bar a second time will uncheck the box.

When you have filled out the form, print pages 2 through 5 to submit to the ~~Department~~. (If you do not wish to fill out the form on-line, you may print out pages 2 through 5, and fill them in by hand, or type them.) **DO NOT FORGET TO SIGN AT THE BOTTOM OF PAGE 5.** The completed forms should then be submitted to the address at the bottom of page 1.

* To download the latest version of Acrobat, go to <http://www.adobe.com/products/acrobat/readstep2.html>.

**STATE OF CALIFORNIA
COMPLAINT FORM INFORMATION**

**DEPARTMENT OF BOATING AND WATERWAYS
ENFORCEMENT**

Thank you for contacting the Department of Boating and Waterways. We hope that we can be of assistance to you with your problem. Please review the following information carefully, as it will assist you in filing your complaint.

The Department of Boating and Waterways investigates complaints against Yacht and Ship Brokers and Salespeople who are accused of misleading or defrauding consumers. If we can prove a violation of the Yacht and Ship Brokers Act occurred within our jurisdiction, a formal hearing may be held which could result in discipline of the agent's license.

All complaints should be submitted in writing (i.e. type written or hand-written). Upon receipt, your complaint will be reviewed and you may be requested to provide additional information. If your complaint is assigned for investigation, you will be notified of the name of the investigator as well as the outcome of our inquiry.

Please understand that we cannot act as a court of law, thus we are not able to order that monies be refunded, contracts be cancelled, damages be awarded, etc. If you have this type of concern, you should consult with an attorney since we are not authorized to give legal advice or act as your counsel. Most county bar associations in the state have lawyer referral services, which are able to arrange a consultation for a modest fee.

In preparing your complaint, please summarize your concerns in a chronological manner using these guidelines:

- Tell us *what* happened. Start from the beginning and describe the events as they occurred. Be specific as to *what* was said, and *who* said it
- Tell us who was present during these conversations or acts.
- Tell us *when* and *where* these conversation/acts took place.

Documentary evidence is especially important! Therefore you should include legible photocopies of all documents relating to your transaction such as listings, offers, deposit receipts, notes and trust, correspondence, copies of the front and back of checks involved, advertising, etc., and attach them to the written complaint. If you are unable to submit photocopies, you may submit the originals, which will be copied and returned to you.

Although the Department is anxious to assist you, it should be noted that the burden of proof established for license disciplinary actions exceeds that required to prove a case in civil court proceedings. The Department will not refer a complaint to the Office of Attorney General for discipline action unless there is clear and convincing evidence that the respondent committed a violation of Section 732 or 733 of the Act. This means, for example, that where the parties offer conflicting testimony, and the complainant's version is either not supported by additional evidence or is contradicted by a written document, the Department's burden of proof will not have been met. Therefore, the Director would not be in a position to proceed with disciplinary action against the licensee.

In addition, the period of time during which the Director can exercise the Department's disciplinary functions is governed by statute of limitations. Generally, the Department of Boating and Waterways must file formal disciplinary action within three years from the date of the Department's discovery of the alleged violations.

Disciplinary hearings are presided over by an Administrative Law Judge who is employed by a state agency independent of the Department of Boating and Waterways. The hearings are conducted in a manner similar to court trials without a jury. At the hearing, the Department has the burden of proving the charges contained in the pleadings and usually does so by calling witnesses and presenting documents in evidence. After the hearing is concluded, the Administrative Law judge prepares a proposed decision, which is sent to the Director of Boating and Waterways for consideration, and final decision.

The Department of Boating and Waterways trust that this information has been of assistance and ask that you retain this material for future reference. If you have Internet access, much more information about the Department and its functions is available on our web page at <http://www.dbw.ca.gov>.

Where to mail or deliver

Mail or hand deliver completed form and attachments to:
Department of Boating and Waterways, Enforcement
ATTN: Yacht and Ship Unit
P.O. Box 722
Sacramento, CA 95816

Licensee Complaint Form

<ul style="list-style-type: none"> ▪ Type or print clearly in ink. ▪ Mail or hand deliver completed form and attachments to the Department; see Page 1 for address. 	<i>RECEIVED DATE</i>
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INFORMATION ABOUT YOU
NAME (ENTER YOUR FULL NAME)

RESIDENCE ADDRESS (STREET ADDRESS, CITY, STATE, AND ZIP CODE)

BUSINESS ADDRESS (STREET ADDRESS, CITY, STATE, AND ZIP CODE)

OCCUPATION	BUSINESS TELEPHONE NO. (INCLUDE AREA CODE) ()	RESIDENCE TELEPHONE NO. (INCLUDE AREA CODE) ()
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INFORMATION ABOUT PERSON/COMPANY YOU ARE COMPLAINING AGAINST

1. FULL NAME OF BUSINESS, COMPANY, FIRM	BUSINESS TELEPHONE NO. (INCLUDE AREA CODE) ()
BUSINESS ADDRESS (STREET ADDRESS, CIY, STATE AND ZIP CODE; INCLUDE ROOM, APARTMENT OR SUITE #, IF ANY)	

2. FULL NAME OF SALESPERSON, AGENT, OR REPRESENTATIVE	EMPLOYED BY
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FULL NAME OF SECOND LICENSEE, IF ANY	EMPLOYED BY
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3. DATE(S) OF TRANSACTION	PLACE(S) WHERE TRANSACTION(S) OCCURRED

ADDRESS OF PROPERTY INVOLVED

4. HAVE YOU CONTACTED THE BUSINESS REGARDING THE COMPLAINT?
 YES NO IF YES, COMPLETE THE FOLLOWING.

DATE(S) OF CONTACT	PERSON(S) CONTACTED
RESULTS OF CONTACT	

5. HAVE YOU FILED THE MATTER WITH ANOTHER LAW ENFORCEMENT OR CONSUMER PROTECTION AGENCY?
 NO YES IF YES, COMPLETE THE FOLLOWING.

NAME OF AGENCY	ADDRESS OF AGENCY
RESULTS OF THAT COMPLAINT	

6. HAVE YOU RETAINED AN ATTORNEY TO ASSIST IN RESOLVING THIS MATTER?
 NO YES IF YES, COMPLETE THE FOLLOWING.

NAME OF ATTORNEY	BUSINESS TELEPHONE NUMBER ()
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ADDRESS OF ATTORNEY

MAY WE CONTACT YOUR ATTORNEY WITH REFERENCE TO THIS MATTER?
 NO YES

7. IS THIS COMPLAINT RELATED TO A LAWSUIT FILED OR PENDING IN ANY COURT?
 NO YES IF YES, COMPLETE THE FOLLOWING.

NAME OF COURT

ADDRESS OF COURT

TYPE OF ACTION

8. ARE YOU WILLING TO APPEAR AS A WITNESS, TESTIFY UNDER OATH AND CROSS-EXAMINED CONCERNING THE ALLEGATIONS MADE IN THIS COMPLAINT?
 NO YES IF NO, LIST REASONS BELOW.

9. WERE THERE ANY WITNESSES TO THE DESCRIBED TRANSACTIONS?
 NO YES IF YES, COMPLETE THE FOLLOWING AND DESCRIBE IN ITEM #11 WHAT THEY SPECIFICALLY WITNESSED.

FULL NAME OF WITNESS #1

RESIDENCE ADDRESS

YOUR RELATIONSHIP TO THE WITNESS	BUSINESS TELEPHONE # (INCLUDE AREA CODE) ()	RESIDENCE TELEPHONE # (INCLUDE AREA CODE) ()
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FULL NAME OF WITNESS #2

RESIDENCE ADDRESS

YOUR RELATIONSHIP TO THE WITNESS	BUSINESS TELEPHONE # (INCLUDE AREA CODE) ()	RESIDENCE TELEPHONE # (INCLUDE AREA CODE) ()
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10. INDICATE WHICH OF THE FOLLOWING DOCUMENTS ARE ATTACHED, INCORPORATED AND MADE PART OF THIS COMPLAINT.

<u>ATTACHED</u>	<u>NOT AVAILABLE</u>	<u>TYPE OF DOCUMENT</u>
<input type="checkbox"/>	<input type="checkbox"/>	LISTING AGREEMENT
<input type="checkbox"/>	<input type="checkbox"/>	DEPOSIT RECEIPT (OFFER)
<input type="checkbox"/>	<input type="checkbox"/>	CASH RECEIPT(S)
<input type="checkbox"/>	<input type="checkbox"/>	CANCELLED CHECK(S)
<input type="checkbox"/>	<input type="checkbox"/>	ESCROW INSTRUCTIONS, AMENDMENTS, & CLOSING STATEMENTS (IF ANY)
<input type="checkbox"/>	<input type="checkbox"/>	OFFER TO PURCHASE AGREEMENT
<input type="checkbox"/>	<input type="checkbox"/>	COPIES OF ALL DOCUMENTS WHICH RELATE TO YOUR COMPLAINT AND WHICH ARE NOT LISTED ABOVE.

11. *IN THE FORM OF A BRIEF STATEMENT, GIVE THE FULL ESSENTIALS OF YOUR COMPLAINT BELOW.*

- REFER TO PAGE 1 FOR GUIDELINES RELATING TO STATEMENT PREPARATION.
- INCLUDE FULL NAMES OF INDIVIDUALS, INCLUDING ALL WITNESSES PRESENT DURING THE TRANSACTION(S). BE FACTUAL. TRY TO ANSWER THE QUESTIONS WHO, WHAT, WHERE, AND WHEN. ATTACH EXTRA SHEETS IF MORE ROOM IS NEEDED.

(CONTINUED FROM PREVIOUS PAGE)

Certification

I certify under penalty of perjury that the foregoing statement and attachments thereto are true and correct. Signed this

_____ day of _____, _____ in the city of

_____, State of California

SIGNATURE OF COMPLAINANT

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