

1. AIBB Code of Conduct and Professional Conduct

1.1. Introduction

1.1.1. The purpose of this Code is to provide our members with:

- a) A set of principles to guide their activities with other members and the public; and
- b) Detail specific and essential rules with which members must comply.

1.2. General Ethical Principles

1.2.1. The general principals to guide our members are:

- a) **Integrity** – Members must act with integrity and steadfastly adhere to our principles, rules and the law.
- b) **Honesty** – Members must act honestly and truthfully so that public trust is protected and other members, clients, prospective buyers and other professional are not misled.
- c) **Transparency** – Members should be transparent about the work they do, the manner in which they do it and their limitations, costs and expenses. Members should be transparent when enquiries are made about their qualifications and experience.
- d) **Fairness** – Members should be just and impartial, reasonable and right in their dealings.
- e) **Skill, Diligence, Competence and Care** – Members must discharge all their duties to their clients with skill, diligence, competence and care consistent with the prevailing professional standards appropriate to those of a professional business broker and those of the AIBB.
- f) **Confidentiality** – Members must not reveal private and/or commercial information entrusted to them by their clients other than as authorised. Members must carry out their duties and tasks so as to comply with instructions, expectations and directions of their clients and the public.
- g) **Conflict of Interests** – Members must place the interest of their client's first. Members must not, at the same time as they are engaged in undertaking work or providing advice for a client, have any interest whatsoever that would conflict with the interests of that client.
- h) **Objectivity and Independence** – Members' decisions and advise must be based on quality information and/or facts, which have been accurately assessed.

1.3. AIBB

- 1.3.1. The AIBB is the professional organisation representing business brokers in Australia.
- 1.3.2. The AIBB as a professional organisation has an organisational vision:

“We are committed to providing value and relevance for members through resources (website etc) and to represent the industry in a positive light to the wider community. We believe that the industry should project a vibrant membership, respected in the community, with a defined career path and security for members in the profession.”
- 1.3.3. In pursuing this vision, the AIBB is concerned with:
 - a) Providing education and training for its members;
 - b) Developing standards of practice;
 - c) Meeting and complying with its brand and marketing efforts
 - d) Being respected in the business and the wider community;
 - e) Advocating the value of using the skills and tools of professional business brokers and business valuers in supporting businesses and the wider community;
 - f) A desire for its members to:
 - i. Be the best in the industry;
 - ii. Committed to their clients; and
 - iii. Always representing the AIBB community.
- 1.3.4. The rules apply to all our members, irrespective of membership type or category.
- 1.3.5. These rules do not replace any law. Where these rules are inconsistent with any applicable law, that law shall prevail.

1.4. Rules

The Rules are as follows

- 1.4.1. **Knowledge of this Code** – A member must have knowledge and understanding of this Code.
- 1.4.2. **Observance of this Code** – A member must observe their rules of the AIBB Constitution, its By-Laws and this Code.
- 1.4.3. **Law** – Members must comply with the relevant laws and any requirements imposed on members by the licencing authority in the relevant State or Territory.
- 1.4.4. **Claiming Membership or Endorsement** – Only financial members of the AIBB can identify with or use any AIBB Membership, Membership ID, associated logos, brands, post nominals, trademarks, or promotional material or resources.
- 1.4.5. **Claiming Accreditations and Qualifications** – Members must not misrepresent their accreditation or qualifications in any way. All accreditation and qualifications held by AIBB members must be readily proven when requested to do so.
- 1.4.6. **Fiduciary Obligations** – A member must comply with their fiduciary obligations as a business broker.
- 1.4.7. **Honesty, Fairness & Professionalism** – A member must act honestly, fairly and professionally in the conduct as a business broker.

- 1.4.8. ***False Statements about Members*** – A member must not knowingly or recklessly make false or misleading statements about another member, their business or their business practices.
- 1.4.9. ***Facts to be placed before Tribunal*** – A member must place all pertinent facts before the Tribunal if requested to co-operate in any way in connection with a disciplinary investigation or proceeding pertaining to alleged unethical practice.
- 1.4.10. ***Frivolous Complaints*** – Members shall not knowingly or recklessly file false or unfounded complaints.
- 1.4.11. ***Reporting Alleged Breaches*** – Members shall promptly report any alleged breaches of this Code by another Member to their appropriate State Chapter Chair, specifying the particulars of any alleged breach in writing together with originals or copies of any relevant document.
- 1.4.12. ***Insurance*** – A member must ensure that at all times they hold current Professional Indemnity Insurance and Public Liability Insurance sufficient to cover the circumstances and operation of the member's practice.
- 1.4.13. ***Clients Instructions*** – A member must act in accordance with a client's instructions unless it is contrary to this Code or is unreasonable or unlawful to do so.
- 1.4.14. ***Appointments in Writing*** – A member must have written instructions from a client to be engaged to sell or buy a business. Specifically, the price at which the member is to offer to sell or buy a business must be in accordance with their client's written instructions
- 1.4.15. ***Clients to be Informed*** – A member must keep their clients promptly informed of substantial developments with their sale and otherwise informed regularly of any developments in relation to the business.
- 1.4.16. ***Fraudulent or Misleading Conduct*** – A member must not engage in conduct that is fraudulent or misleading and deceptive.
- 1.4.17. ***False or Misleading Representations*** – Members must not make false or misleading representations about properties, including the reasonable values of those businesses, or any other matter that is material to the sale, purchase or lease of a business.
- 1.4.18. ***Advertising not to Misrepresent*** – Members shall ensure a true representation in all advertising. Businesses and services shall not be advertised without identifying the Member and the Members AIBB individual ID.
- 1.4.19. ***High Pressure Tactics, Harassment or Unconscionable Conduct*** – A member must not engage in high pressure tactics, harassment or act unconscionably making any statement, or undertaking any actions, that it defies good conscience.
- 1.4.20. ***Soliciting through False or Misleading Advertisements or Communications*** – A member must not solicit clients or prospective buyers through advertisements or other communications that are misleading or deceptive.
- 1.4.21. ***Advertised without Consent of Vendor*** – A member shall not advertise a business for sale if such advertising has been restricted at the request of the seller.
- 1.4.22. ***Photographic Representation*** – A member must not alter or permit to be altered photographic images of businesses, digitally or by other means, such that the images no longer truthfully and fairly represent that business. Lifestyle photographs should be identified as such.

- 1.4.23. **Advice about Market Price** – A member must not mislead a prospective client or client about a business' market price. An opinion on market price must be supported by a written statement of the material supporting facts.
- 1.4.24. **Conjunctional Sales** – A member must inform a client of conjunctional sales and any arrangements the member had with other parties. Prior to agreeing to enter into a conjunctional sale arrangement a member must:
 - a) Inform their client of the parties' details and the proposed arrangement;
 - b) Obtain their client's permission to engage in such an arrangement; and
 - c) Inform the other party of their client's instructions for the sale.
- 1.4.25. **Interfering with another Brokers Appointment** – Members shall not engage in any practice or take any action inconsistent with the appointment or other exclusive relationship recognised by law that other real estate agents have with clients.
- 1.4.26. **Soliciting Listings** – Members shall not solicit a listing which is currently listed solely or exclusively with another Member. Members must disclose the expiration date and nature of such listing to another Member when requested to do so.
- 1.4.27. **Open Agency Sales** – Where a Member (Second Member) is, or becomes, aware that a prospective buyer has inspected a business with another Member (First Member) and the Second Member subsequently impacts the same business with the prospective buyer then the second member must take reasonable steps to establish the status of any negotiations between the buyer, the First Members and the Seller.
- 1.4.28. **Signs** – Signs shall not be placed on any business or property by other than the listing agent unless authorised by the seller/lessor. Members shall not interfere with another member's signs
- 1.4.29. **Verifying Material Facts** – A member who is appointed to sell or purchase a business must take reasonable steps to investigate and verify the facts material to the sale or purchase that a prudent business broker would find out and verify to avoid error, omission, exaggeration or misrepresentation.
- 1.4.30. **Encourage Disclosure by Client** – A member must, at the time of listing a client's business for sale, and at all later times, encourage the client to disclose to the member all relevant facts about the business or associated parties of the business.
- 1.4.31. **Disclosure to the Prospective Buyer** – A member must:
 - a) Ensure that a client is aware that the member is acting for the client and no one else related to the transaction;
 - b) Not induce or allow the other party to the client's transaction to believe that the member is acting for them and must warn them that information disclosed to the member may be disclosed to the member's client.
- 1.4.32. **Referral to a Service Provider** – A member who refers a prospective client, client or the other party to the transaction to a service provider must not falsely represent that the service provider is independent from the member. A service provider is considered to be independent from the member if the member (or anyone related or associated with the member):
 - a) Receives no rebate, discount, commission or benefit (directly or indirectly) for referring a person to the service provider; and

- b) Does not have a personal or commercial relationship with the service provider.
 - c) If the service provider is not independent from the member, the member must disclose to the person;
 - d) The nature of any relationship, whether personal or commercial, the member has with the service provider; and
 - e) The nature and value of any rebate, discount, commission or benefit the member may receive, or expect to receive, by referring the client to the service provider.
- 1.4.33. **Goods & Services** – A member must obtain a client's written approval before incurring out of pocket expenses, or ordering goods or services if the price of the goods or services is more than the amount authorised to be incurred by the member's client. A member must take reasonable steps to ensure goods or services obtained for a client are at competitive prices.
- 1.4.34. **Inducing Breach of Contract** – A member must not induce, or attempt to induce, a breach of, or interference with, a contract between a client and a prospective buyer.
- 1.4.35. **Independent Advice or Representation** – A member must give a client an opportunity to obtain relevant independent or professional advice or representation before the client appoints the member. A member must give a client or the other party to the transaction an opportunity to obtain relevant independent professional advice or representation before signing any document or contract for the sale or purchase of a business.
- 1.4.36. **Failure to Receive Deposit** – A member acting as a deposit holder for a contract must inform the client in writing if the time under the contract for the payment of the deposit has passed without the deposit being received by the member, and must not accept any late payment of the deposit unless the client has been informed in accordance with this clause and the client gives written instructions to accept the late payment of the deposit.
- 1.4.37. **Confidentiality** – A member must not use or disclose confidential information of a person unless in accordance with instructions or the law.
- 1.4.38. **Recording of Information** – A member who gives information about a client or a party to a transaction for recording in a public document or in a database relating to the client or buyer must:
- a) Ensure the information is accurate;
 - b) Take reasonable steps to disclose the information to the client or buyer;
 - c) Give the client or buyer reasonable opportunity to review the information;
 - d) Ensure the client or buyer is informed about how the information may be used; and
 - e) immediately amend the information if the client or buyer provides evidence that the information is inaccurate.
- 1.4.39. **Publicising Code** - A member must ensure that any client or other party to the business transaction can readily access this Code.
- 1.4.40. **Sale Strategy** - A member must provide a written plan to their client as to their proposed strategy, process and expectations on selling the business and must adhere to the plan unless altered by the business broker and the client.

- 1.4.41. **Reasonable Endeavours** - A member must actively and vigorously pursue the sale of their client's business.
- 1.4.42. **Marketing Costs** - Any chargeable advertising or marketing costs incurred for or on behalf of a client shall be passed onto the client without any margin or increase.
- 1.4.43. **Dispute Resolution** - In all dealings, Members must treat each other in a manner that does not disadvantage existing negotiations and with strict professional courtesy and integrity. Where a complaint of noncompliance is received, it will be dealt with under the Dispute Resolution provisions included in the AIBB Constitution.
- 1.4.44. **Conduct Unbecoming** - A member must not engage in any conduct, any action or any activity that is contrary to the public interests of the AIBB or the business broking profession, or which harms the standing of the AIBB or the business broking industry in the eyes of the business community.