

# Code of Ethics for Arbitrators

ACLP has put in place an arbitration system in case Parties cannot find an agreement on the royalty rate.

People who act as arbitrators therefore undertake serious responsibilities to the public as well as to the parties. The arbitration process is determined by ACLP Internal Rules of Regulations but some ethical obligations are also attached to the function of arbitrator.

## *Canon I*

*An arbitrator should uphold the integrity and fairness of the arbitration process.*

A. In no case shall arbitrators act as lawyers of one of the parties.

Though two of the arbitrators are chosen by the parties from a list proposed by the ACLP Secretariat, they don't represent the interests of the parties who have chosen them. During the entire duration of the procedure they have to remain neutral and impartial and conduct themselves as judges and not as lawyers of one of the parties. They shall not let themselves be influenced by any outside pressure, by the fear of being criticized and by personal interests.

B. Persons should accept appointment as arbitrators only if they believe that they can be available to conduct the arbitration promptly. They should make all reasonable efforts to avoid dilatory tactics, harassment of the parties or other participants, or other damages or disruption of the arbitration procedure.

C. After accepting appointment for a case and while serving as an arbitrator for this case, a person should avoid entering into any relationship, or acquiring any interest, which is likely to affect impartiality or which might reasonably create the appearance of partiality or bias. For a reasonable period of time after the decision of a case, persons who have served as arbitrators should avoid entering in any such relationship, or acquiring any such interest, in circumstances which might reasonably create the appearance that they had been influenced in the arbitration by the anticipation or expectation of the relationship or interest.

- D. Arbitrators should neither exceed their authority or do less than is required to exercise that authority completely.
- E. The ethical obligations of an arbitrator begin upon acceptance of the appointment and continue throughout all stages of the proceedings. In addition, wherever specifically set forth in this Code, certain ethical obligations continue even after the decision in the case has been given.
- F. Arbitrators must sign the Ruling containing the chosen Royalty rate, even if the Ruling has been taken at the majority and not at unanimity. The dissenting opinion shall not be indicated in the Ruling to avoid undue following use.

### *Canon II*

*An arbitrator should disclose any interest or relationship likely to affect impartiality or which might create an appearance of partiality or bias.*

Disclosure:

- A. Persons who are requested to serve as arbitrators should, before accepting, disclose:
  - 1) Any direct or indirect financial or personal interest in the outcome of the arbitration;
  - 2) Any existing or past financial, business, professional, family or social relationships which are likely to affect impartiality or which might create an appearance of partiality or bias. Persons requested to serve as arbitrators should disclose any such relationships which they personally have with any party or with his lawyer, or with any individual whom they have been told will be a witness. They should also disclose any such relationships involving members of their families or their current employers, partners or business associates.
- B. Persons who are requested to accept appointment as arbitrators should make a reasonable effort to inform themselves of any interests or relationships described in paragraph A. above.
- C. The obligation to disclose interests or relationships described in paragraph A. above is a continuing duty, which requires a person who accepts appointment as an arbitrator to disclose, at any stage of the arbitration, any such interests or relationships which may arise, or which are recalled or discovered.
- D. Disclosure should be made to all parties and to the other arbitrators.
- E. These present provisions of the Code are intended to be applied realistically so that the burden of detailed disclosure does not become so great that it is impractical for persons in

the business world to be arbitrators, thereby depriving parties of the services of those who might be best informed and qualified to decide particular types of cases.

This Code does not limit the freedom of parties to agree on anyone they choose as an arbitrator. When parties, with knowledge of a person's interests and relationships, nevertheless desire that individual as an arbitrator, that person may properly serve.

### *Canon III*

*An arbitrator should avoid unilateral relationships with one or all parties.*

- A. Unless otherwise agreed by the Parties and ACLP Secretariat, arbitrators should not discuss a case with any party in the absence of each other party.
- B. Whenever an arbitrator communicates in writing with one party, the arbitrator should at the same time send a copy of the communication to each other party and to the other arbitrators. Whenever an arbitrator receives any written communication concerning the case from one party, which has not already been sent to each other party, the arbitrator should do so. In addition, he should also send this to the other arbitrators.
- C. Arbitrators should offer each other entire faculty to participate in all arbitration modalities.

### *Canon IV*

*An arbitrator should make decisions in a fair, independent and deliberate manner.*

- A. An arbitrator should, after careful deliberation, decide on the case related to a royalty rate. An arbitrator should decide no other issues.
- B. An arbitrator should decide all matters fairly, exercising independent judgment, and should not permit outside pressure to affect the decision.
- C. An arbitrator should not delegate the duty to decide to any other person.

### *Canon V*

*An arbitrator should be faithful to the relationship of trust and confidentiality inherent in that office.*

- A. An arbitrator is in a relationship of trust to the parties and should not, at any time, use confidential information acquired during the arbitration proceedings to gain personal advantage or advantage for others, or to affect adversely the interest of others.

- B. Unless otherwise agreed by the parties, or required by applicable rules or law, an arbitrator should keep confidential all matters relating to the arbitration proceedings and decision.
- C. It is not proper at any time for an arbitrator to inform anyone of the decision in advance of the time it is given to all parties. It is not proper at any time for an arbitrator to inform anyone concerning the deliberations of the arbitrators. They may however seek advice from experts. After an arbitration award has been made, it is not proper for an arbitrator to assist in any post-arbitration proceedings, except as may be required by law.