It’s time to stop ignoring the crisis at NAR

The purpose of this document is to acknowledge and fully outline what is happening and not happening at NAR that will negatively impact hundreds of thousands of Realtors. It is also to provide MLSListings officers and executives, those with leadership roles and responsibilities, with information for the upcoming NAR Legislative Meetings in Washington, D.C.

The emerging facts and circumstances surrounding these meetings are extremely tenuous and fluid. While the motive for this report is to present facts as accurately as possible, this document’s ultimate value is in identifying questions and answers that should be addressed during the Washington meetings.

The background

Since the summer of 2017, many issues regarding the National Association of Realtors and its leadership priorities have become increasingly difficult to understand — and nearly impossible to support.

Industry observers have taken note of a growing disconnect between the reality of the real estate industry and the activities of NAR, specifically in the political, financial and leadership spheres of influence.

It has become increasingly apparent that the NAR CEO transition was disappointing and did not manifest as planned. It is also obvious that the relationships between top NAR leadership and its CEO are anything but cordial, compatible or collaborative.

Over the past 90 days these issues have intensified over events related to NAR finances. Questions have been raised internally and externally about a pattern of unsuccessful NAR efforts and exploits.

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These include HouseLogic, the Realtor Credit Union, Realtor Radio, The Realtor University, RPR, Upstream, AMP, the almost childlike, "Logo-gate," NAR's lackluster performance at the recent T3 conference and, most recently, NAR's wholly-owned Second Century Ventures entity.

At the center of these questions are millions of dollars in NAR assets; how were they spent, and what did they achieve for the membership?

Fuel was added to this fire as NAR leaders stated their intent to raise annual member dues by $30 per member. Additionally, the NAR Finance Committee's approval of an "automatic escalators" clause that allows recurring annual increases for dues and other member financial obligations raised heated concerns.

Attendees of the Finance Committee meeting called the approach a classic "cram down NAR, love it or leave it, meeting." This issue is scheduled to be approved by the NAR Board during the upcoming Washington meetings.

Formalized negative reactions

In an unprecedented act, the Houston Association of Realtors board of directors passed a motion of non-support of NAR. They also commissioned a survey of its 34,000 members about their attitudes and reactions to these recent decisions.

The results of their effort were historic: 97 percent of the 6,500 responses expressed their lack of approval for NAR's intended actions.

Over the past two weeks, several other local Realtors associations have undertaken similar discussions with their members. It is anticipated that the results of these discussions will be reported out within the next five days.

Also at issue is NAR's investment in the well-known product, DocuSign. DocuSign has been in the NAR investment portfolio for some time, and the leadership is currently executing an initial public offering (IPO). NAR reportedly has put up a considerable number of its DocuSign shares for liquidation during the IPO process.

Unsubstantiated reports suggest that NAR's share of the DocuSign IPO could range in the millions, possibly between $65 and $165 million. So, where will these funds be issued and to whom? The response from NAR's leadership has been shrouded in secrecy as demonstrated in the attached exhibits, A and C.

Efforts by industry leaders, media and real estate entities to unearth information on how these funds will be accounted for or used, have been met without transparency or accountability; they have been shrouded in secrecy. It is logical to ask: "What is NAR hiding?"

A simple solution could be to issue a statement affirming that no current or former NAR employees, consultants, volunteers or leaders will profit from or receive any proceeds associated with NAR's sale of its DocuSign stock and/or interests.

What is the big deal about these circumstances?

If there ever was a time for the organized real estate sector to get its act together, it is now. The industry and the market conditions paint a picture of growing irrelevance, potential membership loss, further disruption and further erosion of the NAR tenets. This is the greatest challenge in the history of the organization and the industry.

Most disturbing is the fact that NAR leaders appear to be totally unaware of what is happening in the industry, contemporary culture and the marketplace. This was made manifest during the recently so-called, "Logo-gate." Most businesses have a process for branding that includes proper vetting and testing. It is questionable how this branding effort was done. It is no longer business as usual for NAR members; it is now a time of crisis, requiring engagement and action.

It is time for NAR leadership to acknowledge these failings and work toward innovative and progressive solutions. Repeating methodologies of the past will not lead to successful solutions.

Legal experts point out that Realtors should not look to the law for solutions, this is strictly an issue of culture, policy and procedures. To loosely quote the Apostle Paul in biblical writings, "Everything is permissible for me, but not everything is beneficial." A legal approach would invariably surface convoluted agendas, lead to a second layer legal crisis, and would not be beneficial.

Long-term damage

At a time when the industry needs the engagement and participation of the next generations of Realtors, the actions of NAR leaders regarding the DocuSign IPO will most certainly add to their disdain for institutions such as trade associations.

What may be happening here?

Many Realtors are asking what is really happening here? Given NAR's responses and NAR's history (remember the Homestore scandal) it might be safe to assume the unthinkable; that it is likely one or more NAR insiders of current and former senior staff, consultants and volunteers may be in line to receive financial gain from the DocuSign IPO.

Some Realtor leaders are suggesting that this would certainly be one logical explanation for the leadership's inconsistent actions, refusal to commit to answers and seeming disorganization. This IPO, in juxtaposition to an NAR upcoming dues increase with an automatic fee acceleration, brings higher scrutiny to the DocuSign earnings.

What's needed?

It is simple. It is time for Realtors to demand accountability and transparency. It is time to spend the next two weeks inspired. It is time to lay the foundation for a new era at NAR.

And the NAR leadership solution here is so simple. If no payouts are being made, just say no.

However, this begs the hard question: Do Realtors have the power, influence and resources necessary to compel NAR's elected leadership, senior executive or legal counsel to do the right thing?

Can Realtors demand that NAR leaders disclose in writing the existence of any benefits, payments and/or bonuses that will be paid to current or former NAR employees, consultants, volunteers or elected leaders from any or all proceeds from NAR or Second City Ventures because of the DocuSign IPO, or the sale of NAR-controlled DocuSign stock?

It is interesting to note most of the actions suggested here will require the courage that industry observer Rob Hahn recently suggested Realtor leaders must have if their cause is to prevail.

Unfortunately, the odds are not in favor of the membership rising to this level of awareness and action. And it is possible many members will accept these questionable actions as somehow protecting the best interests of Realtors. This would be an immense membership failure.

In conclusion

These unresolved matters do not bode well for the immediate future of organized real estate. There are those who are suggesting that the NAR cultural attitudes of the "Homestore" era remain today.

Until these concerns and issues are resolved it will be impossible for NAR to play an effective leadership role as the industry continues to move into the most contentious and disrupted phase of its history.

Exhibit A

Read NAR's staffer Sara Wiskerchen's comments regarding HAR's interest in these issues and the "fiduciary" duty of any NAR director.

The following information was provided on April 23 on Inman. In response to HAR's vote, NAR spokesperson Sara Wiskerchen provided the following statement to Inman via email:

The upcoming vote on NAR's budget is an important issue that effects all NAR members. To help inform a knowledgeable vote at the NAR board of directors meeting, we've provided dozens of presentations and written explanations about the budget and the future needs of the national association.

These can be found at https://www.nar.realtor/smartbudget*. We're encouraged that local and state associations are helping us educate members and solicit feedback on this important NAR issue.*

That said, this is an NAR issue. Local and state associations do not have a vote on this matter. All NAR directors owe fiduciary duties to NAR. That means they have a special legal responsibility in connection with the administration, investment and care of NAR and its assets. This requires any board member to make careful, good-faith decisions in the best interest of NAR.

Their decisions must be made independently and free of any undue influence from any person or organization, including any local or state association, MLS, brokerage or member. Many board members are multi-board directors, meaning that they also serve as directors of other organizations, such as a local or state Realtor Association.

In that instance, a director owes fiduciary duties to multiple organizations. If the duties owed to another organization prevent a director from giving undivided allegiance to NAR, then the director is personally responsible for addressing that conflict of interest as they deem appropriate.

Exhibit B

Read HAR's open letter on dues showdown

The chair of the Houston Association of Realtors (HAR) has released a letter to association leaders across the nation following up on a showdown with the National Association of Realtors (NAR) over NAR's plan to raise dues for all members, including those in her own association, HAR. Below is the letter in full.

Dear association leaders,

As you may have read on Inman, HAR surveyed our membership, which overwhelmingly opposed

the proposed NAR dues increases.

I followed up with an op-ed clarifying HAR's position of supporting NAR's political advocacy efforts, while maintaining the current dues level. NAR Treasurer Tom Riley then penned a response.

Inman is also in the process of surveying its readers about whether NAR should raise dues, which is located here.

At the time of this email, 83 percent of those responding opposed the $30 dues increase, and 87 percent opposed the annual dues increase of 2.5 percent. Make sure you scroll down and read the comments from Realtors across the country.

While I respect the difficult situation NAR is in, I think true leadership means asking questions and not going along to get along. I believe it also means that you look to the member and think about what is in his or her best interest. Without members, none of us would be where we are.

When HAR polled its members, 97.4 percent out of 6,300 respondents were opposed to the dues increase. We believe HAR members are no different than Realtors across the country.

HAR's board of directors voted unanimously against the increase as well. We have heard from many across the country that are also opposed to the dues increase, especially in light of the fact that other state and local associations have also raised their dues, some as much as $100 per year.

I wanted to show you HAR's position and supporting points that led our board of directors to vote unanimously against the proposed dues increases.

1. HAR **supports** the Realtor Party political advocacy
2. HAR **opposes** the proposed $30 dues increase in 2019
3. HAR **opposes** the 2.5 percent annual dues increase starting in 2020
4. HAR **supports** a reallocation of NAR's financial resources to fund the budget

Second Century Ventures (SCV), a wholly-owned subsidiary of NARBAC (National Association of Realtors Business Activities Corporation), which is a wholly owned subsidiary of the National Association of Realtors, may issue a dividend to NAR for the expressed financial need.

Ultimately, should the money be reinvested or the almost $200 million, less taxes, be returned to NAR (the parent company) to avoid a dues increase?

- Utilize $30 of the $35 per member currently budgeted for the Consumer Awareness Campaign, which we believe a majority of members don't feel is effective.
- In an effort to put a rumor to bed, HAR is not suggesting RPR be terminated. When

launched in 2008, RPR was intended to be self-funded and profitable within four years. Here we are 10 years and $200 million later. Going forward, we propose that RPR's claimed 150,000 "power users" pay $11 per month, which will cover RPR's operating expenses. Why should all NAR members pay for a service that only a small minority of them use?
- HAR questions why NAR not only owns an interest in, but subsidizes with member dues, a forms and transaction management product, zipForms, when a significant number of associations, MLSs, brokers and agents provide access or use competing products, such as Instanet (Transaction Desk), dotloop, SkySlope, Form Simplicity and others.

HAR recommends the following amendments:

- Waive the NAR reserves requirement for 2019 to allow leadership time to conduct a comprehensive line-by-line review and analysis of the budget to eliminate low usage and ineffective products and services, for example, HouseLogic, Realtor University, "dot-Realtor" domain and the Consumer Awareness Program.
- Reallocate $30 of the $35 currently paid by members for the Consumer Awareness Campaign to fund the required 2019 budget needs and future budgets.
- Charge the 150,000 RPR "power users" $11 per month to cover RPR's operating expenses.
- Accept a dividend from SCV in the amount of $39 million (of the roughly $43.8 million received) from the DocuSign IPO to fund the required 2019 budget needs.

If you agree, I ask that you talk to your members and share these points with the NAR directors from your association, so that all sides are considered. I will be standing at the mic on May 19 to share our perspective, which is only intended to open a constructive dialogue about priorities and what members want.

I also encourage you to attend the Treasurer's Budget Forum when the budget will be presented, and people will be able to make comments. The meeting will be held on Thursday, May 17, 2018, from 2 p.m. to 4 p.m. in the Marriott Wardman Park Marriott Ballroom on the lobby level.

I would like to end by commending Elizabeth Mendenhall, John Smaby and Bob Goldberg for taking steps to move NAR in the right direction. This situation wasn't of their making, but they now have to deal with it, along with all of us. We all want them to be successful because NAR's success is our success. Realtors are stronger together.

Kenya Burrell-VanWormer is the chair of the board of directors of the Houston Association of Realtors, which is the second largest local Realtor association in the country, with more than 37,000 residential and commercial members.

Exhibit C

Taken from a Facebook post on Inman Coast to Coast *by Brad Inman:*

Someone sent me this, starts below. The inside scoop on NAR and DocuSign, from NAR treasurer Thomas Riley. Two degrees of separation. “Wholly owned subsidiary” is like the brother who you pretend not to know when you read he got arrested for a DUI, but you are happy to brag about him when he recovers and finally gets a role in a movie. Still family.

PS: Net to the drunk brother approaching $200 million, based on DocuSign current stock price. Congrats to NAR on a great investment.

Memo starts here:

“*In the spirit of transparency, the following information will help you better understand what’s taken place and provide you with talking points should you have or get questions on this topic.*

1. DocuSign is now a publicly traded company (ticker DOCU on NASDAQ).

2. Second Century Ventures (SCV), a wholly-owned subsidiary of NARBAC (National Association of Realtors Business Activities Corporation), which is a wholly owned subsidiary of the National Association of REALTORS, invested in DocuSign in 2009.

3. SCV was established in 2008 as part of the Second Century Initiatives to invest in companies that are innovating real estate in a way that reinforces to consumers that our members are essential to the property buying, owning, and selling experience. SCV and its nationally recognized REach accelerator have equity ownership in more than 50 companies (including DocuSign, Updater, BombBomb and many others) that have created innovative solutions to benefit our members and saved them millions of dollars.

4. SCV operates separately from NAR and is governed by an independent board of directors — a mix of members, AE’s and independent outside executives.

5. The SCV Board of Directors made an offer to sell 1.6M DocuSign shares as part of the IPO. Until the sale of shares is completed (expected closing next week), it would not be prudent for SCV to confirm the amount of any potential proceeds from the proposed sale of shares.

6. Any use of proceeds from the sale of DocuSign stock, as determined by the SCV Board of Directors, will be used to fund SCV’s operations and recapitalize it to make future investments.

7. Any remaining SCV holdings that are not sold as part of the IPO will be subject to a minimum 180-day lock-up period, during which SCV will be restricted from selling any shares. The SCV

Board will determine if and when to sell additional shares after the lock-up period expires. Many things can change between now and then that might affect the public markets, the company and its valuation, and any plans by SCV to sell DocuSign shares.

8. The NAR operating budget is independent from SCV. However, NAR's Finance Committee and Reserves Investment Advisory Board do get briefed on updates from SCV.

9. The 2019 proposed NAR budget was prepared, reviewed, and approved by the Budget Review and Finance Committees. NAR's operating budget is funded through member dues and non-dues revenue (ad sales, sponsorships, booth sales, etc.). The budget was prepared with a clear understanding of the current and future landscapes taking into account any and all NAR investments.

10. Any discussions about the proposed 2019 budget need to be independent from outside investments and income from wholly-owned subsidiaries as it is not fiscally responsible for NAR to budget its annual funding needs, nor can those funding needs be met, with proceeds from a one-time investing payout.

We appreciate all the time you are taking to become knowledgeable about our entire organization and ask questions. We are committed to making sure the information is ready and available. Please let us know if you have any questions, and thank you for your service.

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