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Payments to Real Estate Agents

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To All InterNACHI® Inspectors:

Inspectors often ask whether they may pay referral fees to real estate agents. The answer is, “No.” InterNACHI’s Code of Ethics provides:

Inspectors shall not directly or indirectly compensate realty agents, or other parties having a financial interest in closing or settlement of real estate transactions, for the referral of inspections or for inclusion on a list of recommended inspectors, preferred providers, or similar arrangements.

The purposes of this prohibition are to protect you, inspire confidence in your clients, and to protect the integrity of the profession. If you compensate a real estate agent to obtain referrals, you set yourself up for a claim by an unhappy client that you wrote a “soft” report to avoid damaging your relationship with that agent.

Moreover, a real estate agent who requires you to pay for referrals makes a short-sighted and potentially costly mistake. If something goes wrong, your unhappy client will not only sue you, but will also sue the agent for negligent referral. The client will allege that the agent breached the agent’s duty to exercise independent judgment for the client’s best interests, and was instead motivated by a desire to continue to receive your payments. See, for example, *Schoembs v. Schena*, 2015 WL 1012065 (Superior Court of Massachusetts).

To reduce this risk, we encourage real estate agents to always provide their clients with a list of at least three qualified and certified inspectors and let the client make the final selection. You should remind real estate agents that InterNACHI® inspectors can offer benefits other inspectors cannot. For example, participating inspectors can offer InterNACHI’s Buy-Back Guarantee. InterNACHI® also offers real estate agents protection under its Negligent Referral Program. InterNACHI® is so sure of its inspectors that it will indemnify any licensed real estate agent in an amount up to \$10,000 if a third party successfully sues the agent for negligent referral of an InterNACHI® inspector.

InterNACHI® strives to maintain the highest ethical standards. If you know of an unhappy homebuyer who was referred to an unqualified non-InterNACHI® inspector by a real estate agent who collected a referral fee, InterNACHI® wants to buy that homebuyer’s claim against that agent. Please put the unhappy homebuyer in contact with me at legal@internachi.org.

Sincerely,

Mark Cohen

MARK COHEN
InterNACHI General Counsel

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