

Commission Position 22 - Conflicts of Interest

(Revised October 7, 2025. Recodification adoption June 7, 2022: CP-38 Commission Position on Disclosure of Affiliated Business Arrangements and Conflicts of Interest recodified to CP 22 - Conflicts of Interest)

A Conflict of Interest is when a Broker has a real or apparent competing professional or personal interest which may influence their actions in the performance of their Real Estate Brokerage Services, including, but not limited to, hindering their ability to fulfill duties on behalf of their Client (*see* Rule 1.13).

Conflicts of interest should be properly disclosed and managed appropriately. The management of risk associated with conflicts of interest is fundamental to ensuring a high level of integrity and public trust. The Commission takes the disclosure and management of conflicts of interest seriously.

As set forth in Rule 6.17., Brokers have a continuing obligation to disclose conflicts of interest. Rule 6.17. applies to all Brokers and encompasses many different areas where conflicts of interest may arise. Examples provided below illustrate some circumstances of actual Conflicts of Interest when written disclosure is required and are not an exhaustive list.

1. A Broker who performs Property Management and has an ownership, financial, or familial interest in other businesses or vendors that provide services during the course of the Property Management must disclose their ownership, financial, or familial interest. The Commission strongly recommends that written disclosure be provided early in the business relationship (i.e., in the Property Management Agreement, prior to signing the Property Management Agreement or prior to utilizing such services) and that the owner has the choice to “opt out” of using such services.
2. The Broker or Brokerage Firm has an Affiliated Business Arrangement. (*see* Rule 6.18.).
3. The Broker is the principal, or the broker is a general partner of a partnership, a manager of a limited liability company, or an owner of twenty percent or more of such partnership or limited liability company, and is authorized to sell or lease property owned by the partnership or limited liability company. (*see* CP 16 – Acting a Transaction-Broker in Particular Types of Transactions and CP 14 – Broker Buying Property).
4. The Broker is acting as a Transaction-Broker for both parties to a transaction but has a relationship (e.g., personal, financial, business, familial, or romantic) with one of the parties that might make remaining neutral in the transaction difficult. (*see* CP 16 - Acting as a Transaction-Broker in Particular Types of Transactions).
5. The Broker receives a fee or other Thing of Value (whether monetary or otherwise) for recommending a non-settlement service provider (e.g., security system, cable, internet providers, moving companies, contractors, etc.) (*see* CP 3 – RESPA and Referral Fees).
6. The Broker receives a fee or other Thing of Value (whether monetary or otherwise) for referring a settlement service provider in connection with a non-federally related residential mortgage loan. NOTE: Brokers and Brokerage Firms are advised to seek legal counsel specializing in RESPA before receiving any referral payments. (*see* Rule 6.21.B.2. and CP 3 – RESPA and Referral Fees).

All defined terms referenced in the Commission Position statements are codified in 4 CCR 725-1, Chapter 1 of the Rules regarding Real Estate Brokers.

7. The Employing Broker of a Brokerage Firm supervises the Designated Brokers that represent both sides of the same transaction and confidential information about one or more of the Clients is shared with the Employing Broker. *See* CP-31 on how to manage this type of Conflict of Interest.
8. The Employing Broker of a Brokerage Firm supervises the Designated Broker that represents one side of the transaction and the Employing Broker represents the other side of the same transaction. *See* CP-31 on how to manage this type of Conflict of Interest.

Brokers and Brokerage Firms should err on the side of caution and disclose perceived Conflicts of Interest. Consumers often do not fully understand brokerage relationships, the dynamics of those relationships, or how Brokers and Brokerage Firms represent Clients in transactions. Examples of a perceived Conflict of Interest may include:

1. A Designated Broker representing both sides of the same transaction as a Transaction Broker.
2. A Broker representing a family member, personal friend, business associate, or a repeat or regular customer as a Single Agent in a transaction where the other side of the transaction is not represented by a Broker.