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Showing Property Listed in a Different MLS

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QUESTION: I represent a buyer who is interested in looking at a property that is listed in a different MLS than the one in which I participate. I've contacted the listing agent to set up an appointment to show the property to my client. We didn't discuss the compensation that would be paid if the buyer purchases the property. May I assume that the listing firm will pay the same compensation that's being offered in the MLS that the property is listed in?

ANSWER: No, you most certainly may not. The listing agent's offer of compensation extends only to other participants in the listing firm's MLS. Article 3 of the Code of Ethics does obligate REALTORS® to cooperate with other brokers unless it's not in the client's best interest. According to Standard of Practice 3-10 of the Code, "[t]he duty to cooperate ... relates to the obligation to share information on listed property, and to make property available to other brokers for showing..." Standard of Practice 3-1 clearly states that in a situation like the one you describe, "...cooperating brokers may *not* assume that the offer of *cooperation* includes an offer of *compensation*."

Standard of Practice 3-1 goes on to provide that "[t]erms of *compensation*, if any, shall be ascertained by cooperating brokers before beginning efforts to accept the offer of *cooperation*." Thus, in your situation, *you* are ethically obligated to determine what compensation, if any, the listing agent will offer your firm *before* you obtain information about the property from the listing agent or show the property.

Failure to reach an understanding with the listing agent about compensation is not only unethical, it may also cast doubt on your firm's right to receive anything from the listing firm if your buyer purchases the property. NCAR form 220 ("Confirmation Of Agency Relationship, Appointment & Compensation") is designed for use in your situation. We strongly suggest that you have this form completed and signed by the listing agent before you show the property to your client.

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