

Professional Standards Update-- Disclose Affiliated Business Relationships Prior to Recommending Real Estate-Related Products or Services

REALTOR® Z, a broker and sole proprietor, had invested considerable time, money and energy into developing her website. Seeking to recoup some of her costs, she approached virtually every provider of real estate-related products and services in her area, including financial institutions, title insurance companies, home inspectors, mortgage brokers, insurance agencies, appraisers, exterminators, decorators, landscapers, furniture and appliance dealers, rug and carpet dealers, moving companies, and others about advertising on her home page. As a condition of having a link to their own sites appear on her home page, REALTOR® Z required that a fee be paid to her each time a consumer “clicked through” from her site to an advertiser’s.

Ads for providers of real estate-related products and services who agreed to REALTOR® Z’s terms appeared on her home page under the heading “Preferred Providers”. Immediately under that heading read “These vendors provide quality goods and services. Please patronize them.”

Buyer A frequented REALTOR® Z’s website seeking information about available properties. Using that website, he became aware of a property on Elm Street that he made an offer on through REALTOR® Z, which was accepted by the seller. The sale closed shortly afterwards.

Buyer A was an avid remodeler and, using REALTOR® Z’s website, linked to the Real Rug company website, among others. Interested by what he found there, he subsequently visited their showroom in person and purchased wall-to-wall carpeting and several expensive area rugs.

Given the size of Buyer A’s order, one of the owners of Real Rug came to oversee the delivery and installation. In the course of conversation with Buyer A, he commented favorably on the amount of referral business received from REALTOR® Z’s website. “And to think I only pay a small fee for each customer who’s referred to me by REALTOR® Z,” he added.

Buyer A was somewhat surprised that REALTOR® Z would receive money for referring clients and customers to providers of real estate-related products and services and contacted the local association of REALTORS®. The association provided him with a copy of the Code of Ethics. Reading it carefully, Buyer A concluded that REALTOR® Z’s actions might have violated Article 6, and he filed an ethics complaint against REALTOR® Z.

At the hearing, REALTOR® Z defended herself and her website, stating that the advertisements for real estate-related products and services on her website were simply that, only advertisements and not recommendations or endorsements of the products and services found there. She acknowledged she collected a fee each time a visitor to her website clicked on the links found under “Preferred Providers” but claimed that simply referring to those advertisers as “preferred” did not constitute a recommendation or endorsement of the products and/or the services offered.

The hearing panel disagreed with REALTOR® Z’s reasoning, pointing out that a reasonable consumer would certainly conclude that referring to a provider of real estate-related products or services as being “preferred” by a REALTOR® constituted a recommendation or endorsement. Further, since REALTOR® Z received a fee each time a consumer “clicked through” to one of REALTOR® Z’s “Preferred Providers”, REALTOR® Z received a referral fee, and disclosure of that fee was required under Article 6. REALTOR® Z was found in violation of Article 6.