

HOW TO



AVOID
THE COSTLY TRAP OF
CONFLICT
OF INTEREST
IN REAL ESTATE

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Make yourself an honest man, and then you may be sure that there is one rascal less in the world.

Thomas Carlyle

Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and... those ripples build a current which can sweep down the mightiest walls of oppression and resistance.

Robert. F. Kennedy

Action may not always bring happiness; but there is no happiness without action.

Benjamin Disraeli

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HOW TO AVOID THE COSTLY TRAP OF CONFLICT OF INTEREST IN REAL ESTATE

Conflict of interest in real estate is a well-known tradition, but its discussion is taboo because the solution is not favored by the real estate industry. It's like speeding beyond the speed limit: you know you're not supposed to do it but you do it anyway, because you don't expect to get caught. Some people even have it perfected to an art, they have a system, and even if they get caught they know how to get out of it.

With unprecedented high home prices, overall shortage of market-priced inventory and a substantial increase in the number of new agents in the marketplace, the competition in real estate today is fierce. As a result, more and more agents/brokers are pushing the envelope of ethics and compromising their fiduciary duties towards their clients in order to increase their profits—at the expense of sellers. Conflict of Interest (COI) in real estate is the [basis of the recent lawsuit filed by the U.S. Department of Justice against the National Association of Realtors®](#).

In real estate, violations of fiduciary duties and conflicts of interest (COI) can generate high profits for the offending real estate agent/broker—usually at the expense of the seller. Of course, there are many honest real estate agents, just as there are many drivers who never exceed the speed limit. But how can the consumer tell who's who and which one is which? If an agent does not have any violations with the Department of Real Estate, can we assume that he or she is safe? If a driver has not received a speeding ticket, can we assume that he or she is a safe driver? Of course not; it only means that he or she has not been caught yet. When a crime is committed, motives lead a detective to potential suspects and ultimately the guilty party will be found. For a detective trying to solve a murder, motivation leads him to suspects and ultimately the guilty party.

How does COI in real estate occur? Traditional real estate transactions create 2 conflicts of interest: one between the listing agent/company and the seller, and another between the listing agent/company and all other agents/companies.

1. COI with sellers.

When a seller hires a listing agent/company to sell his property, the seller wants the agent/company to find him the best buyer that will net the seller the most amount of money, but the listing agent's/company's incentive is to find the best buyer that will net the listing agent/company the most amount of money by also representing the buyer on the seller's property. When this happens, the listing agent/company is said to be acting as "dual agent" and earns a "double commission," or keeps the entire commission, instead of sharing it with another agent/company. The desire and ability to make a "double commission," instead of settling for "half" commission, is what tempts the agents/brokers into violating their fiduciary duties. This is referred to as "dual agency."

2. COI with other agents/companies.

The traditional real estate model set up of sole-practitioners, who are paid on commission, creates natural conflicts between the listing broker and all other brokers who might have buyers for that property. The listing agent/broker who has insider information on all details of the property and the seller, is competing with other agents, both within and outside his or her company, for the commissions reserved for the buyer's broker. The listing agent and broker would rather keep all the commission within the company, instead of sharing it with outside agents/brokers. Outside **Buyer agents are effectively competing with the listing agents and listing companies that have insider information.** The listing agent/broker sees all the offers from the agents he is competing with. When **this position of power is exploited for financial gain** at the expense of the seller, it is a conflict of interest and a violation of the agent's fiduciary duties toward his client. Power and money will always make people do things they should not do. The only way not to succumb to temptation is to remove the temptation itself, completely, by never

collecting a buyer agent commission, even during dual agency transactions. Some might want to conclude that “dual agency” is maybe bad? Absolutely not; dual agency can be actually very good for the consumer as long as the listing agent/company is not collecting more money for also representing the buyer, because it puts additional burdens of disclosure and accountability on the listing agent/company. It’s not the “agency” that is the culprit; it’s the additional commission.

So what is the most egregious conflict of interest in real estate?

In California, where good listings are currently scarce, some real estate agents offer a discounted listing commission to secure the listing, but what they are not telling the seller is that they will first try to find a buyer themselves then they will look in-house within the company for qualified buyers, so the agent or broker can “double-end the deal” and collect commissions from both listing and buyer’s side. The only person truly represented here is the agent, surely not the seller.

Glendale based Right Home®, in business over seven years, has published a free booklet entitled “***How to avoid the costly trap of conflict of interest in real estate.***” Right Home® boasts that its industry-unique structure of operation is designed to eliminate conflicts of interest not only with clients but with other independent practitioners as well. It calls itself “the consumer’s advocate.” “**We are getting as many requests from consumers as we are from real estate agents and law firms,**” says Paul Yalnezian, president of Right Home®. “Even the district attorney’s office requested several copies, because there is nothing on the topic elsewhere and it is like the industry’s skeleton in the closet.” For your copy of the booklet, call 818-240-7840 or visit www.RightHome.com. **Ask any agent or broker about conflict of interest and you are likely to get a glass-eyed look...** it is the same kind of look one would get if we asked

a driver “do you ever drive faster than the speed limit?”

Why does this happen so frequently? Why don't the “good” agents tell on the “bad” agents? It may be self-serving, but they will need each other on other future transactions, and besides, they don't want to be perceived as a snitch within the professional community. Moreover, how many of us report speeding violations to the highway patrol? Is it because we don't care about the safety of other drivers or is it because we don't want others snitching on us when we are speeding? Is it maybe because under certain circumstances we might be speeding one day too, even though we're being righteous now? It would be great to have a car that never exceeds the speed limit, just as it would be wonderful to have a real estate company where the agents simply cannot violate their fiduciary duties. This would be a great solution to fix the real estate industry but the big players—the large franchises and top producer agents—won't approve of it because it would reduce their profits.

As a result, [today the real estate consumer is entrapped and can't do anything about it](#). It is the way it is and laws and regulations won't be changing it any time soon, because the industry is self-regulated and there are no incentives to change the existing model.

But [why would Right Home® develop a business model that would cut its profit in half](#) when it represents both seller and buyer on a transaction? What's the hidden motive? It sounds too idealistic for a company that has investors expecting a profit.

“Our goal was to create the real estate company of the future that could grow, the kind of company we would want to go to if we wanted to sell our homes one day,” says Yalnezian. “The Realtor® Code of Ethics is one of the most wonderful and inspiring mission statements of any profession,” he continues, “but how many Realtors® take that self-

imposed duty seriously? How many agents have read it, believe in it, let alone practice it? So how can a seller know if his or her agent/company is ethical and honest and will not be tempted by the significant additional profits? Is their word enough? How are sellers assured that they will not be cheated? Some might say, 'that's business! Everyone else is doing it!' Or, 'everyone else would do it if they were in my shoes!'

"Those were some of the questions that we asked when we were laying the foundation of Right Home®. Real estate is a self-policing industry and it would be naïve to expect the industry to adopt anything new that will reduce profits for the benefit of the consumer. We believe our consumer-friendly approach has growth potential, particularly since our commissions are also extremely low by industry standards. But righteousness, ethics and integrity also have a high price tag."

So how is Right Home® different?

Here's what Yalnezian has to say:

"To begin with, our real estate agents are on salary; that ensures that personal financial pressures do not tempt them into misrepresenting our clients' interests. Besides, they can lose their job. The agents also receive a bonus, which varies depending on the grade they receive from the clients they serve; this ensures that they keep the client happy and satisfied. Our clients enjoy the convenience of real estate, mortgage and escrow services all under one roof, with longer convenient hours than customary. Right Home® has also eliminated the temptation of 'double commissions' during dual agency, which is usually the root of all evil. In other words, Right Home® never collects more if the buyer of a Right Home® listing is also represented by a Right Home® agent—any agent within the company! We believe that **this is the only way to make sure that the best offer recommended by the listing agent is truly the best offer for the**

seller and not the listing agent or broker. This is the only way to eliminate conflicts of interests not only with our sellers and buyers but with “outside” buyer agents as well. After all, an “outside” commissioned agent might have the best buyer for a property and our fiduciary duty towards our seller requires that we make them welcome and motivated to submit their offers enthusiastically. **It is comforting for independent buyer agents to know that the Right Home® listing agent looking at their offer is not competing with them.** But that does not mean that outside agents are not under pressure.

“Since Right Home® does not collect a ‘double commission’ for dual agency, Right Home® buyers for the same property have an advantage over non-Right Home® buyers, because they cost the seller less in commissions. Contrary to traditional real estate, **dual agency at Right Home® always benefits our sellers, not Right Home®** the listing broker, and that’s exactly what fiduciary duty” is supposed to be without any conflicts of interest. **IN EFFECT, RIGHT HOME® IS LIKE A CAR THAT IS PROGRAMMED AND TECHNICALLY “FIXED” SO IT CAN NEVER EXCEED THE SPEED LIMIT, EVEN IF THE DRIVER TRIED TO.** At Right Home® **the consumer’s trust not only will not but also cannot be violated.**

“Now here’s another novelty that truly surprises traditional commissioned agents and demonstrates our commitment to our beliefs. We have incentives and disincentives in place to make sure that **our listing agents do not favor our in-house buyer agents over outside buyer agents.** Now why would we do that? Well, just like traditional agents befriend each other over time, we know that our employees working together over time end up befriending each other; it is only natural. We want our employees to be supporting each other but not at the expense of our clients; we want to maintain a healthy and professional competition that protects our clients’ interests. I remember one commissioned agent who, upon discovering how Right Home worked, said: ‘Are you guys for real? Are you kidding me or are you trying to top Mother Teresa?’

As a result of its unique structure of operation, organizational efficiencies and economies of scale, **Right Home® is able to offer more for less.** More peace of mind, more marketing and advertising for quicker sale at higher prices, and **major savings as a result of reduced commissions.** Right Home® also has some other **unique services** such as a “**Senior Citizen Protection Plan,**” “**foreclosure prevention,**” “**sudden sell,**” “**equity loss**” and “**asset protection**” services that are unparalleled in the industry. Right Home® and its commercial division Right Commercial, offer both residential and commercial real estate brokerage along with mortgage financing and escrow services bundled together. Call today if you are a buyer or seller at 818-240-7840 or look up www.RightHome.com on the web.



The following are consumer tips on avoiding conflict of interest in real estate brought to you by the consumer's real estate company, Right home®; designed to eliminate conflicts of interest and double commissions.

Tips For Sellers

- Remember that real estate commissions are NOT set by law and they are negotiable; there are no "usual" or "industry standard" commissions. The traditional commission-only structure is adopted by most brokerages for their own benefit and convenience, not the consumer's.
- Ask your agent about the service providers s/he is recommending (mortgage broker, appraiser, home inspector) and confirm that there are no hidden referral fees; you just have to take their word for it. Make sure the inspector is not also a contractor trying to generate work for himself by finding fault in the property.
- If the same real estate agent and/or brokerage is representing both the buyer and seller on the same property transaction, it is referred to as "dual agency" and "double ending the deal." Try to obtain a discount from the brokerage, particularly if you're being asked to pay top dollar, and be ready for some stiff resistance and a lot of creative reasons why it "can't" be done. You can remind them that you know of companies that work on "flat fee" commissions who would be delighted to accept a lesser amount.
- If you have any doubts about selling your property, and an agent urges you to list it without even exploring other alternatives to address your issues that may be compelling

you to consider selling your property, seek additional information or consult with other professionals as well— there may be a better solution to address your needs without selling your property.

- If an agent recommends you sell now, ask about any tax consequences of a capital gains tax that could be avoided if you were to sell later.
- Make sure your agent is not purposely delaying marketing activities in order to increase his chances of finding a buyer and earning a double commission. Ask your agent for proof of all the marketing activities that he has promised to do, like copies of MLS listing, price reductions and copies of all ads.
- Review your listing agreement periodically to be sure all terms are being met.
- To be sure the listing price of your property is at fair market value, ask your agent for recent neighborhood comparables and an explanation, then conduct your own research over the Internet or seek the advice of another agent. You may also want to consider an appraisal by an appraiser for a nominal fee.
- When selling, check to be sure your home is being made available for show and inspection to every prospective buyer as agreed upon with the listing broker; verify exposure in the MLS, internet and other advertising media.
- If an escrow in progress suddenly goes awry and there is now a new, "better" offer, be sure the listing agent is not sabotaging the existing transaction by bringing in his/her own buyer in order to collect a double commission.

Tips For Buyers

- If an agent steers you towards a specific property and urges you to buy it, be sure it is a genuine recommendation, and not because the agent will be receiving a higher commission on that particular property. This may be difficult to verify but you can ask them bluntly the following question: "Can you please tell me if you will be making more money if I buy this specific property over the other?" Or, "Do you mind telling me how much the seller will be paying your brokerage for representing us if we make an offer on this property?" It is your right to know.
- If there are multiple bids on the home you wish to buy, ask your agent if there is any financial arrangement (such as a dual or variable rate commission) that may put you at a disadvantage compared to other buyers represented by the listing agent;
- If your agent recommends you offer higher than asking price, ask your agent to provide you with comparables and have him or her show you why/how the price they are suggesting is justified.
- If you are told to make a higher purchase offer because there are multiple offers on the table, ask for validation of the other buyers' existence or just make your best offer and let chips fall where they may. Note that the agent may not be able to prove his claim. If you're buying a home, remember that it is probably your biggest investment; invest wisely and don't give in to hype.
- If you have any doubts about whether you should buy or rent, and your agent strongly recommends you buy, seek additional expert advice from another professional, CPA or financial advisor.

- When in doubt or if you suspect a conflict of interest, have the courage to ask your agent... "I hope you don't mind my asking, but would you be making more money if I buy this specific property (or accept your recommended offer) over the other?" Or, "Do you mind telling me how much the seller will be paying your brokerage for representing us if we make an offer on this property?" If the agent objects, remind them that you are in effect paying for it and you are entitled to know. A seller who pays less in commissions usually is willing to sell the same property for less. So, it can also be said that the buyer is in effect paying the commissions of the agents.



How Is Right Home Different?

Right Home has re-invented the traditional real estate brokerage model by its exclusive use of *salaried* real estate agents and the elimination of traditional double commissions, providing the strongest consumer protections in the industry. Serving the vast Los Angeles basin, Right Home provides separate real estate listing and buyers' agents, mortgage financing, escrow services, home equity protection and foreclosure prevention all under one roof in a streamlined bundled system.

Consumer Protections:

Unlike traditional brokers, Right Home never collects a "double commission" when representing the seller and buyer on the same property transaction. This simple distinction avoids potential conflicts-of-interest, which is pervasive in traditional brokerages, and ensures that Right Home agents are looking after their clients' needs, not their own. Also, clients receive a service performance guarantee, and agents are paid bonuses based on the client's satisfaction. This is a unique way to empower the client and make sure that the agents are motivated to keep the client happy throughout the transaction period, not just until the deal is sealed.

Commission Structure:

Right Home's bundled approach to real estate creates economies of scale, which are passed on to consumers in the form of lower fees. Consumers choose the level of service and the corresponding commission structure to list their properties. Many clients choose the 1.5 percent *total* sales commission plan. Right Home listings are listed in the MLS, advertised on TV, in print and over the Internet. In 75 percent of cases, Right Home can provide buyers for its listings, thus eliminating the need and expense of agents representing non-Right Home buyers. This streamlined operating system saves thousands of dollars for sellers, and allows them to be flexible in their price, if they choose to sell quickly, without affecting their bottom line.

Services:

Real estate brokerage, mortgage financing, escrow services, foreclosure prevention and home equity protection. The company also has an unprecedented program for seniors with more built in protections.

Summary of Right Home Services

- **NO Double Commissions and Conflicts of Interest**; the only real estate company designed to protect consumers like never before.
- **Highest Offers** possible on a property as a result of multi-channel marketing
- **Extremely Low Commissions** without compromising service or marketing exposure
- **Salaried Real Estate Agents** working in teams for better service and availability
- **More Experience and Expertise** as a result of the team and Company Approach to real estate
- **Unique Senior Citizen Protection Plan** that offers seniors services and affordability unprecedented in the industry
- **Affordable and Convenient** real estate brokerage, mortgage and escrow services under one roof
- **Home Equity (Asset) Protection** against potential lawsuits and fraudulent transfers
- **Foreclosure Prevention** and assistance for those who are behind their mortgage payments or on the verge of losing their property
- **Sudden Sell Protection** in case you need to resell your home within the first year
- **Equity Loss Protection** in case you sell your home for less than what you purchased it for
- **Weekly TV Shows** Sundays 10:30 – 11:00 AM on KSCI Channel 18 for most people (check www.Righthome.com for your specific city)
- **Free home evaluation** at www.Righthome.com
- **Residential and Commercial** real estate services

**For Trust, Experience and Value
Come Right home ®**

These consumer guidelines are brought to you by Right Home®, a comprehensive real estate corporation established in 1998. Based in Glendale, California, Right Home® provides residential and commercial real estate brokerage services, mortgage financing, escrow services, foreclosure prevention and asset protection all under one roof.

The company differentiates itself from the traditional brokers by its exclusive use of salaried real estate agents, instead of sole-practitioner commissioned agents, and a structure of operation designed to eliminate double commissions and conflicts of interest. Paul Yalnezian is the founder and President of Right Home®.

For more information, contact Right Home® at (800) 873-8373 or Info@RightHome.com. You can also watch the weekly Right Home TV show on KSCI, channel 18 in most areas of Southern California for unique listings and real estate news (Check www.RightHome.com for correct cable channel in your city).



R I G H T *h o m e*®

The only company designed to eliminate double commission and conflicts of interest.

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