

# Legal Hotline Q&A

December 2017

*Q: I referred a prospective buyer to a local builder. They have entered into a contract, and I will receive a referral fee. Do I have any liability or responsibility in the transaction?*

**A:** Maybe. There are some details that should be fleshed out.

You could be potentially liable to the buyers if the builder turns out to be unlicensed or known to do defective work or otherwise likely to default on the agreement ... and there was any reason to believe you should have known those things.

There is also the potential the buyer's lawyer will name you in any suits that result from the contract because it is not clear whether you defined your relationship with the buyers in writing. What is your role in the transaction? Who, if anyone, are you representing?

You can correct that error by sending your client a letter that confirms your understanding that you are not representing or advising them in this purchase (assuming that is the case) and they should seek whatever representation they deem advisable.

Do the same with the builder (not representing either party) and confirm the referral agreement at the same time.

It goes without saying, but make sure you put copies of the letters, emails, or documentation of whatever communications you use in your transaction file.

Jenny Pakula, Esq.  
Interim CEO & General Counsel  
Oregon Association of REALTORS®



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