



## Can a broker affiliated with a firm receive a commission check directly from the closing attorney?

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John Wait, Martin & Gifford, PLLC

**QUESTION:** I am a full broker, and I've been affiliated with my firm for several years. I went to a closing yesterday with my favorite attorney. While I was there, he apologized and told me that the commission check would be made out to my firm instead of to me directly. He said that's what the License Law requires. Is he correct? Both the closing attorney and my firm would rather he write a check directly to me.

**ANSWER:** Yes, the closing attorney is correct. [Rule .0120](#) was revised in July 2021, and it states that an "affiliated broker shall not be paid a commission or referral fee directly by anyone other than their current BIC or the person who served as their BIC at the time of the transaction." We have sought guidance from the Real Estate Commission on this rule, and its legal department has confirmed that this means a closing attorney cannot pay an affiliated broker directly, even if that is what the firm and closing attorney want to do.

Closing attorneys can still split commission checks between the selling firm and listing firm if they wish to do so. However, brokers should note that section (a) of Rule .0120 also says that a "broker shall not require or demand of any escrow agent or attorney that a broker's commission be split with or paid to another person or entity." So, while it is permissible to make a request to the closing attorney for a split between the selling firm and listing firm, it would not be permissible to make a demand if the closing attorney is not willing to accommodate that request.

It is worth noting that section (c) of Rule .0120 further expands a broker's duties in dealing with closing attorneys. Section (c) states that a "broker shall not coerce, extort, collude, instruct, induce, bribe, or intimidate a service provider in a real estate transaction in order to influence or attempt to influence their findings, report, or decision. Service providers include, but are not limited to, appraisers, attorneys, inspectors, financial lenders, and contractors."

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