



Canopy's clarification on NCR's Q&A (#7) on Navigating Compensation

The North Carolina Realtor® Legal Q&A, Navigating Cooperative Compensation in Compliance with North Carolina License Law and the Code of Ethics, provides a **FINAL RESORT** that has left agents confused.

Ideally, buyer agents will continue to determine and confirm compensation prior to the submission of any offers. Buyers are also free to ask for seller concessions in their offer, which can include amounts that go towards buyer agent compensation.

Buyer agents continue to be prohibited from putting the terms of their compensation in the pre-printed North Carolina Offer to Purchase. In addition, buyer agents cannot “attach” their compensation agreement **to** the Offer to Purchase itself. The compensation agreement must never become part of the Offer to Purchase.

As a **final resort**, the Q&A provides, in #7, that when a buyer's agent **cannot** obtain information about cooperative compensation even after making multiple attempts, that it is permissible to send a separate proposed compensation agreement at the same time as your buyer's offer. You may also make your buyer's offer **contingent** on the seller or listing agent's separate agreement as to cooperative compensation, as long as you are directed to do so by your buyer in writing. This practice is not a violation of license law; however, a message must accompany the compensation agreement and offer that is carefully drafted to convey the correct message.

While this practice is permissible, it is **RISKY** and agents are cautioned to consult with their BIC and legal counsel to make ensure the email message or other writing that accompanies the offer to purchase and compensation agreement will achieve the intended result.

As a **BEST PRACTICE**, buyer agents should exhaust all other options before relying on the [final resort option described in #7 of the NC REALTORS® Q&A](https://www.ncrealtors.org/question/best-practices-for-the-cooperating-compensation-agreement-form-220). Website URL: <https://www.ncrealtors.org/question/best-practices-for-the-cooperating-compensation-agreement-form-220>