



LEGAL FAQ: *Brokerage Incentives*

By **Christal Park Keegan**

Nevada REALTORS® Legal Information Line Attorney

Q: *As an incentive to get buyers, my brokerage wants to offer the first 20 prospects who buy through our brokerage a chance to win a car. Does this violate any real estate rules or laws?*

A: The question involves both Nevada statutes and the REALTORS® code of ethics. In Nevada licensees are prohibited from offering any chance incentive to a prospective homebuyer in an effort to influence the homebuyer to use their services, because it is considered a chance prize, which is a lottery. NRS 462.105 prohibits individuals from conducting a lottery unless the entity has a gambling license or is a non-profit organization.

NRS 462.105 “Lottery” defined.

1. Except as otherwise provided in subsection 2, “lottery” means any scheme for the disposal or distribution of property, by chance, among persons who have paid or promised to pay any valuable consideration for the chance of obtaining that property, or a portion of it, or for any share or interest in that property upon any agreement, understanding or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle or gift enterprise, or by whatever name it may be known.

2. “Lottery” does not include a promotional scheme conducted by a licensed gaming establishment in direct association with a licensed gaming activity, contest or tournament.

3. For the purpose of this section, a person has not “paid or promised to pay any valuable consideration” by virtue of his having:

(a) Engaged in or promised to engage in a transaction in which he receives fair value for his payment;

(b) Accepted or promised to accept any products or services on a trial basis; or

(c) Been or promised to have been present at a particular time and place, as the sole basis for his having received a chance to obtain property pursuant to an occasional and ancillary promotion conducted by an organization whose primary purpose is not the operation of such a promotion.

NRS 462.250 Penalty for unauthorized lottery. A person who contrives, prepares, sets up, proposes or draws any lottery, except as authorized pursuant to this chapter, is guilty of a misdemeanor.

[1911 C&P § 230; RL § 6495; NCL § 10177]—(NRS A 1991, 2261)—(Substituted in revision for NRS 462.020)

NRS 463.0153 “Gaming” and “gambling” defined.

“Gaming” or “gambling” means to deal, operate, carry on, conduct, maintain or expose for play any game as defined in NRS 463.0152, or to operate an inter-casino linked system.

NRS 463.160 Licenses required; unlawful to permit certain gaming activities to be conducted without license; exceptions.

1. Except as otherwise provided in subsection 4 and NRS 463.172, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others:

(a) To deal, operate, carry on, conduct, maintain or expose for play in the State of Nevada any gambling game, gaming device, inter-casino linked system, slot machine, race book or sports pool;

(b) To provide or maintain any information service;

(c) To operate a gaming salon; or

(d) To receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any gambling game, slot machine, gaming device, race book or sports pool, without having first procured, and thereafter maintaining in effect, all federal, state, county and municipal gaming licenses as required by statute, regulation or ordinance or by the governing board of any unincorporated town.

The ethical issue is NAR Standard of Practice 12-3 which states “care and candor” must be exercised in advertising an offer so that parties to whom the advertising is directed will have a clear, advanced understanding of all terms and conditions. The ethics principle is to fully disclose what the consumers must do to get what they have been offered.