

Fraudulent and Dishonest Conduct

This case study highlights how agents must access property only on the terms provided, and not in a fraudulent or dishonest manner. In this instance, the broker was not held liable for the agent's actions, and it is important to note that the firm took immediate action to prevent future occurrences from happening.

THE SITUATION:

On September 10, 2019, the Department of Professional and Occupational Regulation received a written complaint from Candace Flynn regarding Isabella Hans.

Isabella Hans was issued a real estate salesperson license in February 2016, and her license was activated with Tri-Area Realty. Phineas Buford is the Principal Broker for Tri-Area Realty, and Ms. Hans's Supervising Broker.

THE INVESTIGATION:

On February 7, 2019, Ms. Flynn listed her house for sale at 3129 Beach Road, Virginia Beach, Virginia ("subject property"), and it went active in the Metropolitan Regional Information System ("MRIS"). Ms. Flynn was represented by Perry Ferb, Principal Broker of Sell Today Real Estate, Inc. Ms. Flynn received and approved Ms. Hans's ShowingTime request to view her property. The request was for February 10, 2019 from 9:15 a.m – 9:30 a.m. SentiLock Access records for the subject property show that Ms. Hans accessed the lockbox at the subject property on February 10, 2019 at 9:21 a.m.

Ms. Flynn was not present for Ms. Hans's appointment, but did watch the live video feed from a baby web cam located in the master bedroom that was accessible via her smartphone. Ms. Flynn provided the video to investigators. Investigators observed Ms. Hans enter the bathroom, adjacent to the master bedroom, where Ms. Hans could be heard opening and closing cabinets for two minutes. Next, Ms. Hans entered the master bedroom and went through both nightstands. She also looked in a purse located on the top shelf of the closet. Ms. Hans looked through Ms. Flynn's dresser drawers before exiting the bedroom. Ms. Hans then crouched down inside a closet. Investigators could hear the sounds of Ms. Hans either twisting an object in the closet or opening and closing a drawer before she stood and left.

Ms. Flynn noted that nothing appeared to be taken from the subject property, but she immediately reported the incident to her agent, Mr. Ferb, who then notified Mr. Buford. Ms. Flynn also reported the matter to police who filed a misdemeanor charge.

On February 10, 2019 at 4:02 p.m., Mr. Ferb received Ms. Hans's MLS Feedback which stated that the client was not interested in the property and thought that the price was too high.

Ms. Flynn received an apology letter from Ms. Hans stating that she was sorry for her inexcusable behavior and apologized for the heartbreak.

Ms. Hans told investigators that she was being nosy when she went through Ms. Flynn's belongings, but did not take anything from the subject property. Ms. Hans said she was not thinking when she requested to view the subject property with a client, even though she had no intention of

bringing a client to the appointment, and emphasized that this type of incident has never happened before and will never happen again.

Mr. Buford told investigators that approximately two years ago, Ms. Hans developed an addiction to pain medication. Mr. Buford stated that Ms. Hans sought treatment, and that he has not received any other complaints involving Ms. Hans, who is in therapy and will be required to attend ethics training. He stated that as a result of this incident, Ms. Hans is not allowed to enter anyone's property without him being present.

THE RESULT:

The Board determined that Ms. Hans's action of using her SentiCard to access the subject property and searching through the homeowner's personal belongings constitutes improper, fraudulent, or dishonest conduct. The Board issued a \$250 fine and suspended Ms. Hans's license for six months. The Board agreed to stay the suspension provided that Ms. Hans pays the monetary penalty and complies with the rules and regulations of the Real Estate Board for a period of six months from the effective date of the Order. Further, Ms. Hans agreed to provide to the Board, on a quarterly basis, for the period of one year a written statement from Ms. Hans and her principal broker that Ms. Hans is in compliance with the regulations of the Real Estate Board. The Board ordered Ms. Hans to complete at least three classroom hours of Board-approved continuing education pertaining to Ethics and Standard Conduct.