



Failure to Disclose Brokerage Relationship

This case examines a scenario where the buyer’s agent did not engage in obtaining a written Buyer Brokerage Agreement. It is imperative that agents obtain a written brokerage agreement before engaging in any type of real estate representation. It is required under the Virginia Rules and Regulations, and protects your hard work while you work for your clients.

THE SITUATION:

On April 5, 2021, the Department of Professional and Occupational Regulation received a written complaint from Warren Rodan regarding Everett Sheldon.

Mr. Sheldon was issued a real estate salesperson license on July 10, 2020. He is currently a salesperson with Country Realty.

THE INVESTIGATION:

Investigators learned that on January 6, 2021, Mr. Rodan contacted Mr. Sheldon inquiring about a property in Roanoke, Virginia. Mr. Sheldon scheduled a showing of the property with Mr. Rodan. Mr. Rodan saw the property, but ultimately decided not to make an offer because there was an inch of water in the basement of the home.

On January 12, 2021, Mr. Rodan contacted Mr. Sheldon and requested to view a property located at 314 Franklin Road, Salem, Virginia (the “Subject Property”). On January 14, 2021, Mr. Sheldon showed Mr. Rodan the 314 Franklin Road property.

On February 16, 2021, Mr. Rodan, as Buyer, and Christopher Stanis, as Seller, entered into a Residential Contract of Purchase for the purchase of the Subject Property. The Mountain Realty Group, as the listing Firm, represented the seller, with Ramona Fischer as the listing agent. Mr. Sheldon was listed as the Buyer’s Agent, representing the buyer. The information regarding the Listing and Selling

Firms was missing from the Contract, but the Listing Agent and Buyer's Agent information was documented on page 10 of the contract.

On February 20, 2021, Mr. Sheldon collected a \$2,000 Earnest Money Deposit check from Mr. Rodan. On February 24, 2021, the EMD was deposited into County Realty's escrow account.

On February 26, 2021, a home inspection was performed at the property. The inspection identified some repairs that were needed. Mr. Rodan and Mr. Sheldon emailed back and forth about hiring contractors.

On March 2 and 4, 2021, Mr. Rodan and Mr. Sheldon emailed back and forth about other repairs that needed to be made, a request for a reduction in price, and about contractors performing work at the Subject Property.

On March 10, 2021, Mr. Rodan signed the following documents drawn up by Mr. Sheldon: Home Inspection Removal of Contingency Addendum, the Addendum to Purchase Agreement, and the Amendment to the Purchase Agreement.

On March 25, 2021, London Fraas, Senior Loan Processor with LoanEmeritus, emailed the parties to the transaction and stated that they would not be able to close on the Subject Property the next day. Ms. Fraas requested proof that the safety and hazard repairs named on the Contract Addendum had been completed with copies of contractor invoices and photos, and a complete copy of the Home Inspection Report. Both Mr. Rodan and Mr. Sheldon emailed Ms. Fraas for clarification.

Mr. Rodan told investigators that he believed Mr. Sheldon erred in drafting the Contract Addendum and was responsible for providing Ms. Fraas with a copy of it. Ultimately, Mr. Rodan had to obtain a new loan with a different lender. Because of these difficulties, Mr. Rodan no longer wanted to work with Mr. Sheldon and did not think that Mr. Sheldon represented him because no brokerage agreement had been signed.

On April 10, 2021, Mr. Rodan, as Buyer, and Mr. Stanis, as Seller, entered into a second Residential Contract of Purchase for the purchase of the Subject Property. The contract indicated that Mr. Stanis was still represented by the Mountain Realty Group and Ms. Fischer, but did not provide representation for Mr. Rodan. Ms. Fischer drafted the contract and sent it to the closing attorney. The closing attorney presented the contract to Mr. Rodan.

On April 14, 2021, Country Realty released the \$2,000 EMD to the closing attorney, and on April 20, 2021, Mr. Rodan closed on the Subject Property.

Mr. Sheldon told investigators that there was no brokerage agreement signed with Mr. Rodan because the first contract had included the information in the contract where it says "selling company" and "listing company" on the first page, and again on the last page where it lists the selling and listing agents. Mr. Sheldon stated that he was paid a finder's fee because Ms. Fischer felt that he was owed some compensation for the work that he performed.

THE RESULT:

The Board determined that Mr. Sheldon failed to disclose his brokerage relationship to the purchaser, in writing, before providing specific real estate assistance and ordered him to pay a fine of \$400 and complete at least six classroom hours of Board-approved Post-License education pertaining to Contract Writing.

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