



Dishonest Conduct

This case examines a scenario in which a listing agent added an addendum to a contract increasing the agent's commission by 1% without first obtaining client's permission. Agent's may not alter their compensation without their client's approval.

The Situation:

On May 5, 2015, Mary Murphy was issued a real estate salesperson license by the Virginia Real Estate Board.

On May 9, 2022, the Board received a written complaint from Amy Davidson regarding agent Mary Murphy of Victory Realty.

The Investigation:

On February 14, 2022, Sublime Housing Investments LLC ("Sublime"), as seller, entered into a standard listing agreement with Victory Realty, the listing firm, and Mary Murphy as the listing agent, to sell 1234 Tidewater Lane, Norfolk, VA. Sublime also entered into a Standard Agent Exclusive Right to Sell Brokerage Agreement to Standard Listing Agreement ("Brokerage Agreement"), with Victory Realty as listing firm, and Murphy as listing agent, for the sale of the subject property. Sublime is owned by Amy Davidson.

On March 9, 2022, James Jefferson ("Jefferson"), as buyer, and Sublime, as seller, entered into a REIN Standard Purchase Agreement ("Contract"), in the amount of \$200,000 for the purchase of the subject property.

On March 16, 2022, Victory Realty, the listing firm, through Murphy, the listing agent, and Top Notch Real Estate, as selling firm, through Steven Burman, buyer's agent, entered into a Selling Firm Brokerage Notice authorizing the settlement agent to disburse 3% of the final sales price to the selling firm upon settlement of the subject property.

The Brokerage Agreement indicates the seller will pay a total Brokerage Fee of 6% of the final sales price with 3% paid to the selling firm.

On April 11, 2022, settlement of the property occurred. The next day, Davidson, owner of Sublime, received an email from the title company which contained an amendment to the contract. The amendment increased the commission of Murphy, the listing agent, from 3% to 4%. Davidson advised that she had never seen or signed the addendum.

Davidson called Murphy. On the phone call, Murphy reportedly said that she felt the subject property was a “bad home” that required more work for Murphy. Murphy therefore felt it was appropriate to charge a higher commission. Murphy acknowledges not seeking Davidson’s consent prior to increasing her commission on the addendum.

The Results:

Murphy was charged with violating Board Regulation 18 VAC 135-20-260 which prohibits a licensee from engaging in improper, fraudulent, or dishonest conduct, including but not limited to fabricating or altering a document, as well as signing any document on a client’s behalf without client’s permission.

The Real Estate Board imposed a penalty of \$2,500, placed Murphy’s license on probation, and required completion of nine classroom hours of ethics education.

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