



Commission Directly from Buyer

The Situation:

John Morton (“Morton”) was issued a real estate Salesperson license on January 4, 2019. On November 25, 2020, he became affiliated with Ye Olde Real Estate, LLC (“YORE”).

On April 24, 2021, William Taliaferro (“Taliaferro”) entered into an Exclusive Right to Represent Buyer Agreement (“Buyer Agreement”) with YORE, as the Selling Firm, and Morton, as the Selling Agent, for the purchase of a home in Williamsburg. The Buyer Agreement stated that Morton would receive a total commission of 4%, with 3% paid by the seller and 1% paid out-of-pocket by Taliaferro. Taliaferro paid the 1% directly to Morton, not to YORE.

On April 26, 2021, Taliaferro entered into a purchase agreement on a property in Williamsburg for \$400,000. Settlement occurred on June 15, 2021, at which time YORE received \$12,000 in commission. On the following day, Taliaferro transferred the remaining 1% (or \$4,000) into Morton’s personal checking account.

The Investigation:

A complaint was filed, and the investigation uncovered one violation against Morton. The investigation found that though Morton should have known that he could not accept commission from anyone other than his broker, he had exercised due diligence by submitting the Buyer Agreement to his team leader. There was no intent by Morton to shirk brokerage oversight. Morton believed that the additional 1% commission was a bonus above the commission he received from YORE.

When Morton was informed of the potential violation, he immediately repaid the money to YORE, who then sent the money back to Taliaferro.

The Result:

The Board determined that Morton violated 18 VAC 135-20-280.2, which prohibits licensees from accepting a commission for a real estate service from a person other than his broker. The Board imposed a fine of \$500 for the violation. In addition, Morton was placed on probation for one year and

required to complete three hours of Real Estate Agency CE and six hours of Real Estate Law and Regulations CE within six months.

Published July 2023

