



## **Failure to Exercise Ordinary Care**

This case examines a scenario in which a buyer's agent failed to exercise ordinary care and promote the interests of the client by submitting offers on three separate listings despite the fact that the buyer could not afford to purchase all three properties. Agents must exercise ordinary care to ensure their client's interests are being advanced.

### **The Situation:**

On June 6, 2016, Sally Smith was issued a real estate salesperson license by the Virginia Real Estate Board.

On April 10, 2022, the Board received a written complaint from Bob Richardson regarding agent Sally Smith of Triumph Realty.

### **The Investigation:**

On January 15, 2022, Bob Richardson entered into a buyer agency agreement with Sally Smith. After viewing homes in the area with Richardson, Smith submitted offers on five different properties, one after another. On each occasion, Richardson was outbid. As time went on, Richardson grew increasingly desperate for housing. Smith, in an effort to improve Richardson's chances of getting an offer accepted, decided to submit offers on three separate listings. Richardson only wanted, and could only afford, one property.

Sally Smith called each listing agent upon submitting the three offers to inform them that Bob Richardson was submitting offers on more than one property. However, no contingencies were included in any of the three offers that would allow Richardson to terminate an offer in the event multiple offers were accepted.

Smith received confirmation that an offer for one of the of properties had been accepted. At that point she had not heard from the agents representing the other two sellers, so, believing they were not accepting Richardson's offer, Smith did not notify them that the offers to buy were being rescinded.

Three days later, Smith received word that an offer for a second property had been accepted. The Real Estate Board subsequently found that Smith failed to advance Richardson's interests to buy one property by submitting multiple offers without contingencies.

**The Results:**

Smith was charged with violating section 54.1-2132.A of the Code of Virginia which requires licensees to exercise ordinary care in their duties and to promote the interests of their clients. Smith was also charged with violating Board Regulation 18 VAC 135-20-310.2 which requires licensees to provide timely notice of any material changes to all principals of the transaction.

The Real Estate Board imposed a penalty of \$1,750, placed Smith's license on probation, and required completion of 27 classroom hours of continuing education to be completed within six months.

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