



Escrow Violation: Follow the money

This case study highlights the importance that the Virginia Real Estate Board (VREB) takes with escrow accounts in general. Selling agents need to remember they are hired by buyers to assist the buyer in carrying out their duties as allowed. Agents in general are also bound to notify the parties of any material changes in the transaction in writing.

The Situation:

John Bash was issued a real estate salesperson license in 2011 and was affiliated with The First and Best LLC, a real estate brokerage firm.

On May 1st, 2023, Owner and Mr. Bash entered into an exclusive agreement with the right to list real property for sale.

Mr. Bash brought a Buyer for Owner's property and secured proper dual agency disclosures.

Owner and Buyer ratified a contract on May 4th, 2023. The contract stated Buyer will deliver the EMD to the settlement agent within 5 business days.

The Investigation:

Buyer wrote a check for the EMD totaling \$10,000. However, Buyer mailed the check to The First and Best LLC and not to the settlement agent. The check was received by the firm in regular mail but not opened for five days. Bash's assistant notified the principal broker of the check. The principal broker had as a policy that the firm does not handle EMDs.

The principal broker notified Mr. Bash the firm had received the check for the EMD and that it was in the name of the firm. Bash notified Buyer of the mistake and asked Buyer to write the check and mail it to the settlement agent as agreed upon. Buyer rewrote the check and mailed it to the settlement agent the same day. The check was received by the settlement agent three days later.

During the investigation, it was revealed Mr. Bash had not notified the Owner the check had not been deposited per the terms of the contract. Bash did not notify the Owner of this error at all. There were no other issues with the transaction and it settled on June 15th, 2023.

The investigation discovered there was some confusion with Buyer. During questioning Mr. Bash admitted he had not provided proper instructions to Buyer. He could understand how Buyer was confused and did not know where to send the check.

The Result:

The Board determined that Mr. Bash failed to provide reasonable assistance to his client to satisfy the Buyer's contractual obligations to deposit the EMD, 54.1-2132.A.4. Also, they determined Mr. Bash's failure to notify the seller constituted a violation of 18 VAC 135-20-310.2. Mr. Bash was fined a total of \$3,100 and required to complete 6 classroom hours of Board approved continuing education pertaining to contract writing.

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