



## **Obligation to Obtain a Written Brokerage Agreement**

This case examines a scenario in which a real estate licensee acting as an agent for a buyer failed to obtain a written brokerage agreement at the commencement of the brokerage relationship. Real estate licensees must enter into a written brokerage agreement with their prospective clients in advance of providing brokerage services. The written brokerage agreement must contain a definite termination date, state the amount of the brokerage fees and how and when such fees are to be paid, state the services to be rendered by the licensee, and other terms agreed to by the client and the licensee.

### **The Situation:**

On September 12, 2018, Andrew Montgomery was issued a real estate salesperson's license.

On June 10, 2023, Montgomery prepared a written offer to purchase the property located at 123 Spruce Street, Suffolk, VA. Montgomery prepared and submitted the offer on behalf of Sally Johnson, a prospective buyer.

On November 17, 2023, the property closed.

On February 3, 2024, the Department of Professional and Occupational Regulation (DPOR) received a written complaint from the listing agent, Bob Smith, regarding Montgomery.

### **The Facts:**

Sally Johnson stated that she never signed a brokerage agreement with Montgomery or his brokerage firm. Johnson said that the only thing she signed was the purchase contract.

Montgomery stated that he usually has clients sign brokerage agreements at the same time he has them sign initial purchase offers and other disclosures. Montgomery said that he has not been able to find a copy of a brokerage agreement with Johnson related to the purchase of the subject property; however, he has found all the other signed disclosures. Montgomery stated it was possible that he did not get Johnson to sign a brokerage agreement, or he forgot to put a signed brokerage agreement in the contract package that was given to his brokerage.

Montgomery failed to make use of a written brokerage agreement with Johnson.

**The Result:**

Montgomery was found to have violated Virginia Code section 54.1-2137(B), which requires licensees to enter into written brokerage agreements with prospective clients prior to providing brokerage services. The Board found the Montgomery's failure to produce a copy of a written agreement, coupled with Johnson's statements, established that Montgomery did not meet his statutory obligations. Montgomery was fined \$350.00 and was required to complete six classroom hours of Board-approved post-license education pertaining to real estate law and regulations, to be completed within six months.

*Published May 2026*

