

Stay “In Front Of the Sign”

What to do when a represented seller calls you

LESSON

16

It’s a tricky situation when a represented seller calls you directly. It’s easy to find yourself caught in an ethical dilemma because there are circumstances when the call is perfectly ok and others where it’s in violation of the Code of Ethics. It all depends on how you handle the call and what actions result from it.

The most important thing is to be upfront and honest. Make sure they understand that it violates the Code if you interfere in the relationship with their current agent. Explain how you can and cannot serve them. But, as always, be polite and offer to help where you can. You aren’t obligated to tell the listing agent about the call, but it can be a good idea that helps avoid the perception that you initiated the conversation. Talk with your broker about the best way to handle this kind of contact that won’t jeopardize your relationship with either the client or the other agent.

TIPS

1: Listen politely but don’t offer affirmation or comment on any remarks that they might make about their current listing agent.

2: Explain that you understand they are currently in a binding listing contract, and that you don’t want to interfere with that, but that if it is their desire, you can certainly discuss with them how you could be of service to them after that current agreement is no longer in place.

3: Remember that an exclusive listing agreement with a different agent doesn’t prohibit you from providing that seller with a different type of real estate service on the same property, or any type of service on a different property that they own. But be careful about using the MLS to find prospects. The Code is clear on this and it is expressly unethical to use the MLS to identify clients, even if you are soliciting listing agreements on a property separate from anything listed on MLS.

CASE STUDY

Case Study #2-2: Responsibility for a Sales Associate’s Error

A REALTOR® in your city is asked to list a neglected house that obviously needs a wide range of repairs. He strongly advised the owner that it would be to his advantage to put the house in good repair before offering it for sale, but the owner wants it sold at once “as is.” The listing agent writes a novel advertisement offering a “clunker” in poor condition as a challenge to an ambitious do-it-yourself hobbyist.

A few days later, a sales associate in the listing agent’s office, who was not a Board member, shows the house to a retired couple that had been attracted by the ad because the husband was looking forward to applying his “fixer-upper” skills. The sale is made. Shortly thereafter, the buyer charges the listing agent with having misrepresented the condition of the property.

At the hearing, the buyer admits that he understood the house was in poor condition. It turns out, though, that while showing the house, the sales associate had commented that since the house was made of stucco and concrete, it would have little worry of termites. Turns out he was wrong, and the house was full of termites. There had been no evidence of termite infestation prior to the sale, and the sales associate had made his statements thinking they were well grounded.

The listing agent offered to pay the cost of exterminating the termites, as well as the cost of lumber to repair the damage, in view of the sales associate’s failure to recommend a termite inspection.

Was the listing agent guilty of violating Article 2 of the Code of Ethics?

The Hearing Panel said that, yes, the listing agent is in violation of the Code, though they commended him on his resolution of the situation.

Final thought: *Earning the good will of other agents is important to your long-term business. Being straight up with people, treating their client relationships with the same respect you demand from other agents is a sure way to earn the trust and respect of other REALTORS®.*



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Instructor’s Notes

- Try to create conversation; lectures are less interesting. Try to talk about personal experiences. Encourage newer agents to talk about situations that might be confusing. In the long run, dialogue is good for your business.
- Ask for a show of hands from people who’ve had represented sellers call them directly. It’s a common problem.
- Ask for people to share how they’ve handled the situation.
- Be prepared to discuss how you prefer your agents handle these situations.
- For agents that miss your meetings, these lessons are also available online at thecodeisgoodbusiness.com/va/lessons.

