

Loyalty and Honesty Go Hand-in-Hand



the facts

A gentleman of El Salvadoran descent, Mr. Stevens, decided that he wanted to purchase a home. He subsequently contacted a broker and entered into a buyer-agent agreement. Mr. Stevens was extremely excited to have a broker working on his behalf and agreed to pay a \$200 fee and as well as a 3% commission. The agreement stated:

- The seller's deposit would be credited toward the commission
- Commission would be payable upon transfer of title
- Commission would be payable if the title didn't transfer based on any action or default of the buyer

Shortly after signing the buyer-agent agreement, Mr. Stevens found a home under construction and entered into a contract.

Mr. Stevens was pre-qualified by a mortgage company for which an associate broker, working in the same firm as his agent, was the president. A few days before closing Mr. Stevens received a call from the mortgage company informing him that due to his legal residency status he was unable to obtain a conventional loan and that the contract would be terminated as a result.

When Mr. Stevens called his realtor asking for the return of his commission, the realtor refused. He told Mr. Stevens that the commission was for services rendered and that all fees paid were non-refundable. However, when Mr. Stevens reviewed his agreement he found no language to that effect.

Mr. Stevens contacted the State's Fair Housing Office to file a complaint and they decided to review other buyer-broker agreements of the Mortgage Company and Real Estate Firm. They found that no other buyers of Hispanic or El Salvadoran origin were requested to pay commission prior to closing. However, the Real Estate Board determined that the investigation of the complaint established prima facie evidence of discrimination under State code and therefore reasonable cause existed to believe there was unlawful discriminatory housing practices.

the result

This case was eventually settled for \$17,500 and Mr. Stevens subsequently obtained an FHA loan and purchased a home.

Real estate professionals have an obligation to treat every buyer with the same standards and each buyer has the right to equal housing opportunity. It is unethical and illegal to discriminate because of a person's race, color, religion, nationality, age, familiar status and physical and mental capacity.

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Risk Factor #1

Your fiduciary duty as a real estate professional is to be absolute and undivided in your loyalty; there should be no hint of any conflict of interest. This requires diligence, faithful service, integrity, utmost care, honesty, good faith and full disclosure.

Risk Factor #2

No real estate professional ever expects to be sued. But the unexpected does happen so it's important to be prepared. And the key to being prepared is to document everything! Documentation is crucial when facing an angry homeowner.



Victor O. Schinnerer & Co., Inc.
Two Wisconsin Circle
Chevy Chase, MD 20815-7022
Phone: 301-961-9800
Fax: 301-951-5444