

S/N 5 – Misleading Co-broke Salesperson About Seller’s Commission

Facts of Case

The seller (complainant) appointed the Respondent on an exclusive basis to sell her property and agree to pay her a commission of 1.5% of the price upon a successful sale of the property.

A buyer, who was represented by a salesperson, agreed to buy the property at a price of \$775,000. The Respondent agreed to pay the co-broke salesperson, who was representing the buyer, co-broke commission of half the commission payable by the seller, which the Respondent said was 1% of the price. The Respondent initially did not wish to indicate the seller’s commission amount in the option to purchase but wrote it as 1% of the price, when the buyer’s salesperson insisted that it be written down. The Respondent subsequently altered her own copy of the option to purchase to reflect that the seller’s commission was 1.5% of the price (as she wanted to collect such commission from the seller).

Charge

The Respondent was charged for disreputable conduct by misleading the co-broke salesperson that she would only be receiving commission from the seller of 1% of the price, and agreeing to pay half of this as co-broke commission to the buyer’s salesperson, when she (the Respondent) knew that the seller’s commission was actually 1.5% of the price, in contravention of paragraph 7(1) read with paragraph 7(2)(a) of the Code of Ethics and Professional Client Care.

Outcome

The Respondent pleaded guilty to the charge. The DC imposed upon the Respondent a suspension of 5 months and a financial penalty of \$5,000 and also fixed costs of \$1,000.