

Earnest Money Deposit

This case highlights not only the importance of adhering to the Board's regulations through actions such as depositing the earnest money deposit in a timely manner and notifying all parties of material changes to the transaction, but also the importance of paying attention to detail and keeping up to date on your broker's policies and the status of the transaction.

THE SITUATION:

Ms. Emmaline Quinn was issued a real estate salesperson license in February 2002, and was active until April 2006. She placed her license on inactive status for the next 12 years. In August 2018, Ms. Quinn activated her license with Sunset Real Estate Company, LLC. Mr. Andrew Burke is the principal broker for Sunset Real Estate Company.

Mr. Burke then filed a complaint against Ms. Quinn on August 15, 2018 suspecting a violation of the escrow regulations.

THE INVESTIGATION:

Investigators learned that Ms. Quinn began living abroad in the Bahamas and in Canada in 2005. She reported that she is only in the United States for approximately 50 days per year. She activated her license after so many years in order to assist her elderly parents in selling their rental property and to sell her own personal rental properties. She has sold almost all of her 27 rental properties.

On July 12, 2018, George and Jennifer Quinn Living Trust, as Seller, entered into a Standard Agent Exclusive Right to Sell Brokerage Agreement, with Sunset Real Estate Company as the Listing Firm, and Ms. Quinn as the Listing Agent. George and Jennifer Quinn are Ms. Quinn's parents.

On July 23, 2018, Justine French, as Buyer, and George and Jennifer Quinn Living Trust, as Sellers, entered into a Standard Purchase Agreement for the purchase of a property in Virginia Beach, Virginia. Ms. French was represented by Mr. Reed Linus of High Tide Brokerage, Inc.

The contract specified Sunset Real Estate Company, LLC as the Escrow Agent and required the buyer to provide a \$500 Earnest Money Deposit check (the "EMD") that was to be deposited by the escrow agent within five business banking days following ratification. Ms. French provided the EMD check, but it was not deposited until August 14, 2018.

Investigators found Ms. Quinn to be confused about the evolution of events. In her written statement, Ms. Quinn said that she ratified the contract on July 26, 2019, and met with Mr. Linus from High Tide Broker, Inc., to drop off the ratified contract. However, in a later interview she stated that she ratified the contract on July 24, 2019, and then flew out of the country the following day.

Investigators determined that the timeline of the transaction was:

1. On July 23, 2018, the Buyer gave Mr. Linus an EMD check payable to Sunset Real Estate Company.
2. On July 26, 2018, the contract was ratified, and Ms. Quinn delivered the ratified contract to Mr. Linus.

3. On July 27, 2018, Mr. Linus delivered the contract and EMD in any envelope with Ms. Quinn's name to Sunset Real Estate Company.
4. On August 14, 2018, the EMD was deposited by Sunset Real Estate company.

Ms. Quinn told investigators that after giving the contract to Mr. Linus she did not think she needed to check on any of the proceedings because Mr. Linus would be handling the Contract and EMD, despite the language in the contract. She stated she was unaware that the contract and EMD had been delivered to her office because "I was not contacted."

Ms. Quinn asserted that following rules was important to her, but also told investigators that she had no idea what Sunset Real Estate Company's procedures were for submitting a contract and EMD.

Mr. Linus told investigators that Ms. Quinn never communicated to him verbally or in writing that the EMD had not been deposited as specified in the Contract. Ms. Quinn admitted that she never made any notification, written or verbal, to Mr. Linus indicating that the EMD had not been deposited as specified in the Contract.

Mr. Burke reported that his firm's policy is for salesperson to turn in a copy of the contract for review by office state and the broker, regardless of whether they represent the Buyer or Seller. He stated that Ms. Quinn had not turned in a copy of the contract for the sale of the subject property.

THE RESULT:

The Board determined that Ms. Quinn failed to submit to her broker in a timely manner the contract and the EMD, and failed to provide, in a timely manner to all principals in the transaction, written notice that the EMD had not been deposited into Realty, Inc.'s escrow account, as specified in the contract.

The Board imposed a fine of \$1,200, placed Ms. Quinn on probation, and required her to complete four classroom hours of Board-approved continuing education pertaining to Real Estate Contracts, two classroom hours pertaining to escrow management, and two-hours pertaining to Legal Updates.