



Real estate sales representative fined \$3,500 for misconduct

A real estate sales representative has been fined \$3,500 for misconduct over the sale of a Warnbro property in November 2012.

Consumer Protection took disciplinary action against Dane Stephen Rawlings after an investigation into the sale found he had breached the Code of Conduct for Agents and Sales Representatives. Mr Rawlings faced two charges and was fined \$1,500 and \$2,000 on each by the State Administrative Tribunal (SAT) on 30 July 2014, and ordered to pay \$1,000 in costs.

While acting as the sales representative for the Warnbro property, Mr Rawlings had received two offers of \$410,000 and \$400,000, both subject to finance. The higher offer was not presented to the seller of the property. If it had been presented to and accepted by the seller then it may have resulted in Mr Rawlings sharing the commission from the sale of the property with the sales representative for the people who made the higher offer on a 'conjunctional' basis. Only the lower offer, which resulted in him receiving full sales commission, was presented to the seller and later accepted.

Mr Rawlings had told the sales representative for the people who made the higher offer that their offer had been rejected in favour of a full price cash offer, which was false.

Before imposing the fines, the SAT took into account that Mr Rawlings' failure to communicate this higher offer to the seller was a serious matter which involved concealment that was very difficult to detect and this type of misconduct undermines the property sales process and the trust that the general public has in the real estate industry.

The SAT also took into account Mr Rawlings assurances that, in the future, he will improve his practice by:

- Being present at every viewing to meet with potential buyers and agents, particularly if it is a conjunctional arrangement;
- Taking precise diary entries and notes regarding telephone calls and meetings to ensure no details are overlooked; and

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- Becoming more accountable with regards to forwarding offers to the seller and his principal and informing all parties of subsequent developments.

Commissioner for Consumer Protection Anne Driscoll said that real estate agents and sales representatives must always act in the best interest of their clients.

“Honesty and integrity is at the heart of the Code of Conduct and those in the real estate industry who do not adhere to the rules may be subject to disciplinary action and ultimately could lose their licence to operate,” Ms Driscoll said.

More information on the Code of Conduct is available on the Consumer Protection website: www.commerce.wa.gov.au/cp/real_estate or enquiries can be made by email: consumer@commerce.wa.gov.au or by calling **1300 30 40 54**.