

Indirect Interest in Buyer

REALTOR® A had taken two offers to buy a commercial property listed with him to the owner, Client B. Both offers had been considerably below the listed price, and on REALTOR® A's advice, Client B had rejected both. REALTOR® C came to REALTOR® A seeking a cooperative arrangement on REALTOR® A's listing, which was agreeable to REALTOR® A. REALTOR® C brought a contract to REALTOR® A from a prospective buyer, a bank, offering more than the previous proposals, but still 10 percent less than the listed price. REALTOR® A took the offer to Client B and again advised him not to accept an offer at less than the full listed price. Again, the client acted on REALTOR® A's advice. The bank revised its offer, proposing to pay the listed price. This offer was accepted by Client B, the owner.

About a month after the closing, the Board of REALTOR®s received a letter from a director of the bank that had purchased Client B's property, charging REALTOR® A and REALTOR® C with unethical conduct and duplicity which had resulted in the bank's paying an excessive price for the property. The complaint stated that REALTOR® C was a stockholder in a corporation, one of whose officers was a director of the bank; that REALTOR® C, in a transaction that was handled through REALTOR® A, had evidently used his connection with the bank to induce the bank to buy at a price higher than the market; and that neither of the two REALTOR®s had disclosed to the other officers of the bank the connection that existed between them and one officer of the bank.

At the hearing, REALTOR® A defended his actions by stating that he knew nothing of any business relationship between REALTOR® C, the cooperating broker and the buyer; that he had acted wholly in accordance with the best interests of his client, the seller. REALTOR® C demonstrated that he had negotiated solely with the president of the bank; that the director of the bank who happened to be an officer of a corporation in which he, REALTOR® C, held stock was at no time contacted during the negotiations; that the matter had never been discussed with that individual.

It was the conclusion of the Hearing Panel that the indirect relationship between REALTOR® C and the buyer was not of a nature to require a formal disclosure; that REALTOR® C could not be held to be in violation of Article 4. The panel pointed out, however, that in a borderline case where it could be reasonably inferred that a relationship did exist, the spirit of Article 4 would be better served if disclosure were made to avoid any possibility of unfortunate or unfounded suspicions.