

Earnest Money Deposit

Escrow violations are some of the most common violations that come before the Virginia Real Estate Board. This case demonstrates the importance of adhering to the terms of the real estate contract and making timely deposits of the Earnest Money Deposit as required by the contract.

THE SITUATION:

On September 5, 2018, the Department of Professional and Occupational Regulation received written notice from Mr. Samuel Hines regarding the late deposit of an Earnest Money Deposit (“EMD”). Mr. Hines is the Principal Broker for Main Real Estate, LLC (“Main Real Estate”).

On August 10, 2018, Mr. Hines, as Purchaser, made an offer to on a Contract for Purchase of Unimproved Property with Amanda Slate, as seller, for the amount of \$50,000.00. Mr. Hines was represented by Main Real Estate, LLC. Best Realty, LLC was the listing firm representing the seller. The contract was ratified August 13, 2018.

Page 3 of the contract stated, in part:

3. **DEPOSIT:** Purchaser shall make a deposit of \$500 to be held by Main Real Estate, LLC (the “Escrow Agent”) in the form of: check cash other _____ (the “Deposit”). Purchaser **[select one]:** has paid the Deposit to the Escrow Agent OR will pay the Deposit to the Escrow Agent within 5 days (the “Extended Deposit Date”) after the date this Contract is fully executed by the parties. If Purchaser fails to pay the Deposit as set forth herein, then Purchaser shall be in breach of this Contract. At Seller’s option and in lieu of all other remedies set forth in this Contract, Seller may terminate this Contract by written notice to Purchaser and neither party shall have any further obligation hereunder.

On September 24, 2018, Mr. Hines wrote a check to Main Real Estate in the amount of \$500 as the EMD for the purchase of the property. On September 25, 2018, the \$500 EMD was deposited into the escrow account for Main Real Estate.

THE INVESTIGATION:

Mr. Hines told investigators that he had been negotiating the purchase contract over the course of several months, and that after the contract was ratified he completely forgot about the deposit. Once he realized the mistake, he immediately deposited the funds into the escrow account.

Ms. Slate reported that she was never notified by Mr. Hines that the EMD had not been deposited with the firm, as specified in the contract.

THE RESULT:

The Board determined that Mr. Hines failed to exercise ordinary care by failing to ensure the EMD was collected by his real estate firm and deposited into the escrow account as specified by the contract. It also noted that Mr. Hines failed to make written notification to all principals in the transaction that the EMD had not been deposited, as specified in the contract. It fined him \$1,150 for both violations and required that he complete at least four classroom hours of Board-approved continuing education pertaining to real estate contracts.