

Case #6:

REALTOR® Leo is a sales associate with Done Right, REALTORS®. To promote Done Right's in-house listings, the firm's principals offer \$1,000 bonuses to the company's sales associates for each listing sold.

Dr. Newcomer, a recent transferee to the town, enters into a buyer's representation agreement with Done Right, REALTORS® through REALTOR® Leo.

Dr. Newcomer explains he has specific needs, foremost of which is that any home he purchases must be convenient for and readily accessible to Dr. Newcomer's spouse, who is physically challenged. "Part of my wife's physical conditioning program is swimming," says Dr. Newcomer. "So," he explains, "in addition to everything else, I am looking for a home with a pool or room to build a pool."

During the next few days, REALTOR® Leo shows Dr. Newcomer several properties in the Blackacre Subdivision, all of which are listed with Done Right, including one with an outdoor swimming pool. Not included among the properties shown to Dr. Newcomer are several similar homes in Blackacre that are listed with other firms, including one with an indoor pool.

After considering the properties he sees with REALTOR® Leo, Dr. Newcomer makes an offer on the home with the outdoor pool. His offer is accepted, and the transaction closes.

Several months later, REALTOR® Leo receives notice that an ethics complaint has been filed against him by Dr. Newcomer. From a colleague at the hospital who lives on the same block, Dr. Newcomer learned about the home with the indoor pool that REALTOR® Leo failed to show him when Dr. Newcomer was looking for just the right property. The complaint alleges that REALTOR® Leo put his own interests and those of Done Right ahead of Dr. Newcomer's interests by exclusively promoting Done Right's listings and by not telling Dr. Newcomer about the similarly priced property with the indoor pool. Dr. Newcomer also says in the complaint that he believes the unshown property suited his family's needs much better than the property he purchased, because his wife would have been able to use the pool all year long. The complaint spells out that REALTOR® Leo received a bonus for selling one of Done Right's listings to Dr. Newcomer, and that Dr. Newcomer believes that REALTOR® Leo's failure to tell him about the house with the indoor pool was motivated by REALTOR® Leo's desire for the bonus.

During the hearing, REALTOR® Leo defends his actions, explaining that properties rarely meet all of a potential purchaser's desires, and that he made Dr. Newcomer aware of several properties that met most of his requirements, including one property with an outdoor pool. REALTOR® Leo goes on to say that Dr. Newcomer must have been satisfied, because he ultimately purchased that home.

When questioned by the hearing panel, REALTOR® Leo acknowledges he knew about but did not show the house with the indoor pool to Dr. Newcomer. He concedes that a year-round, indoor pool was better suited to the family's needs than a seasonal, outdoor pool. He also admits that failing to tell Dr. Newcomer about the house with the indoor pool was, at least in part, motivated by the prospect of the bonus offered by his firm. "But" he also argues, "aside from the indoor pool, that house is no different than the one that Dr. Newcomer bought."

REALTOR® Leo's obligations under Article 1 call for him to (check all that apply):

- A. find Dr. Newcomer a house that he is willing to buy
- B. show Dr. Newcomer all properties that meet his specific needs and requirements, regardless of whether those properties are listed with Done Right, REALTORS® or another firm
- C. subordinate his own interests to those of Dr. Newcomer
- D. explain that he honestly believes other physical conditioning programs might be better than swimming for Dr. Newcomer's wife

Article 1 requires REALTOR® Leo to disclose the \$1,000 bonus at the time of entering into the exclusive buyer's representation agreement with Dr. Newcomer.

- A. True
 - B. False
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Case Study #6 ANSWER:

- 1. B & C
- 2. False



- a. Explanation - There is no obligation established in the Code to disclose the \$1,000 bonus. However, nothing prohibits REALTOR® Leo from doing so to fully inform his client and to eliminate the potential for future problems. Regardless, REALTOR® Leo must put Dr. Newcomer's interests before his own desire to obtain the \$1000 bonus. Further, Standard of Practice 1-13 does not apply because the \$1000 bonus is part of an in-house incentive and not from "other brokers" (i.e. in a different firm).

