

# Article 1 - Case Study 1

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The small commercial building is reasonably priced, in good condition, and located on a high-traffic street in a quaint neighborhood of Chicago, so it is no surprise that two offers are made only after a few days on market. John, the listing broker, presents both offers to the seller, Kathy. One of the offers is from a client of John's and the other is an offer from Buyer Broker Bob's client.

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## Article 1 - Case Study 1 continued

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"These offers are both full price, with no contingencies, and there seems to be no difference between them," says Kathy to John. "Can we make a counter-offer for more money?" she asks. John explains that countering a full-price offer could result in one or both buyers walking away from the table.

"Okay, I'll tell you what," says Kathy, "If you reduce your commission, I'll accept the offer you procured. Although you will earn a little less than we agreed in the listing contract, you'll still get more than you would if you had to pay the other buyer's broker." John agrees.

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# Article 1 - Case Study 1 continued

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Buyer Broker Bob learns from his client, who contacted seller Kathy directly to find out why her full-price offer wasn't accepted, that listing broker John had reduced his commission to make the offer that he procured more desirable. Bob is very upset.

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Can John renegotiate his listing commission at the time he presents the two offers?

No. John is bound to the commission he agreed to in the listing contract.

Yes, John may renegotiate the listing commission, but only before he presents the offers.

Yes, John is permitted to renegotiate the listing commission at any time.

John may only raise the listing commission, not lower it.

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No. John could not possibly be objective when Can Jon presenting an offer from his own client. renegotiate? By reducing the Yes. Standard of Practice 1-6 requires only that listing commission, offers be presented "quickly". can John present both offers in an objective manner, No. By agreeing to reduce the commission, John indicates that Bob's client's offer is no good. as required by Standard of Practice 1-6? Yes. John's reduction of the listing commission alone does not mean he cannot be objective in his presentation. Agreeing to reduce the listing commission is simply part of the negotiation process.

Under Article 3, as
established in
Standard of
Practice 3-4, is John
obligated to inform
Bob that he
modified the listing
commission prior to
the offer being
accepted?

Yes. By reducing the listing commission for the offer, he procured, John created a "dual commission arrangement", one that must be disclosed.

No. Even though John might have created a "dual commission arrangement", disclosure of such to Bob is not "practical" given the situation.

No. Standard of Practice 3-4 does not require a listing broker to disclose a dual commission arrangement.

No. Reduction of the listing commission during negotiations does not create a dual or variable rate commission arrangement as defined in Standard of Practice 3-4.

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#### Article 2 – Case Study 1

Dr. Luis, who recently completed his medical residency, decides to return home to the neighborhood where he grew up to open a small medical practice. He enlists the services of REALTOR® Sara to find him a suitable space for his clinic. Sara emails Dr. Luis several properties that fit his requirements. One property is a two-story building listed by REALTOR® Tom that shows in the remarks section, "Rental apartment upstairs."

Dr. Luis calls Sara to tell her that something about Tom's listing seems odd. "That building is in the neighborhood I grew up in," says Dr. Luis, "and I remember there being a problem with the Building Department when the owners added a kitchen to the second floor, so they could live above their business."

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### Article 2 – Case Study 1

Sara assures Dr. Luis that she will make the necessary inquiries, then promptly get back to him. A call to the Building Department confirms Dr. Luis' suspicion – that the building is zoned "commercial" and does not provide for a residential apartment."

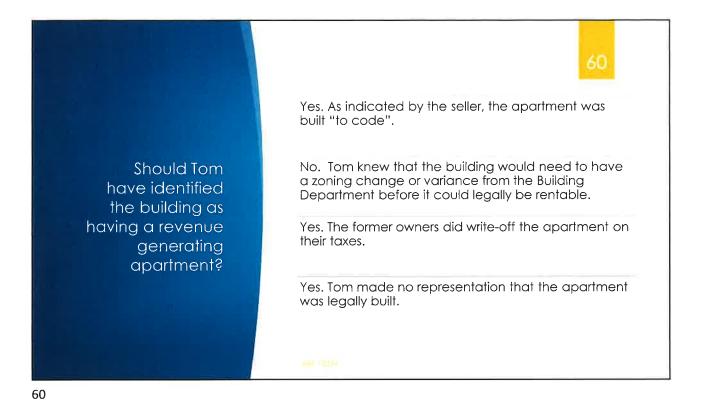
Feeling embarrassed and misled by an apparent misrepresentation of the property in the MLS, Sara contacts Listing Broker Tom who acknowledges the seller told him the rehab was "up to code," but was completed without the necessary permits. According to Tom, the apartment had never been rented. "I assumed the new owners could get a zoning change or variance from the Building Department," he said.

Sara contemplates filing an ethics complaint against Tom, charging a violation of Article 2 for publishing inaccurate information in the MLS.

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# No. Once he was contacted by Sara, Tom explains to her exactly why he thinks the future owners might be able to obtain a zoning change or variance from the Building Department. Yes. Tom misrepresents the property information in the MLS. No. It is outside Tom's expertise to know whether the property's zoning provides for an apartment. Maybe, depending on whether the seller told Tom to list the property in the MLS that way.



Article 3 Case Study 1

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Lucy is a listing broker who published an offer of coope

Lucy is a listing broker who published an offer of cooperation and compensation in MLS for one of her listings, prices of \$100,000). The offer of compensation to MLS participants was for X percent. Sam saw the MLS listing, showed the property and wrote an offer on the property for Barney Buyer. When Sam delivered the offer to Lucy, she said "Oh, by the way, I had to reduce my commission the other day to keep the seller happy. I can only pay Y percent co-op fee now." (Y is I percent less than X.)

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Standard of Practice 3-4 - dual or variable rate commissions.

Standard of Practice 3-2 - changes in compensation offers.

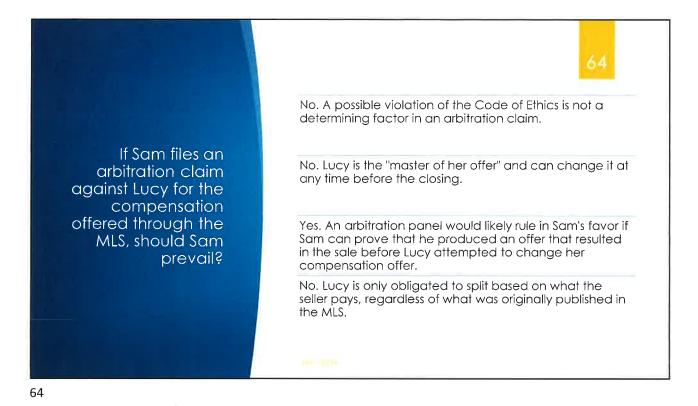
Standard of Practice 3-1 - terms of compensation offers.

Standard of Practice 3-3 - mutually agreed changes in compensation.

Standard of Practice 3-3 - mutually agreed changes in compensation.

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The offer, contingent on the sale of the buyer's Article 3 current office building, is accepted by Seller Sam. But Sam instructs Bill, the listing broker, to Case Study 2 continue to market the property with the hope that a better offer or one without a contingency would be made. One week later, Buyer Broker Steve contacts Bill to arrange a showing of the property to an out-of-town client. "I think it's the perfect building and location for my client's business. He'll be here this weekend," says Steve. Bill sets up the showing for the weekend but says nothing about the previously-accepted purchase offer.

#### After seeing the property with his client, Steve drafts a purchase offer and sends it to Bill's Article 3 office. At Seller Sam's instruction, Bill informs the original buyer of the second offer, and the Case Study 2 buyer waives the contingency. continued Bill informs Steve that Sam intends to close on a previously-accepted contract now that the "sales contingency" has been removed. Steve is very upset that Bill did not tell him about the previously-accepted offer. Bill says he continued to market the property and did not make other brokers aware it was under contract to promote his client's best interest by continuing to attract buyers. 4BR 13234

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Yes. Standard of Practice 3-6 clearly establishes that Bill must disclose accepted offers.

No. It could have affected Bill's ability to obtain future offers.

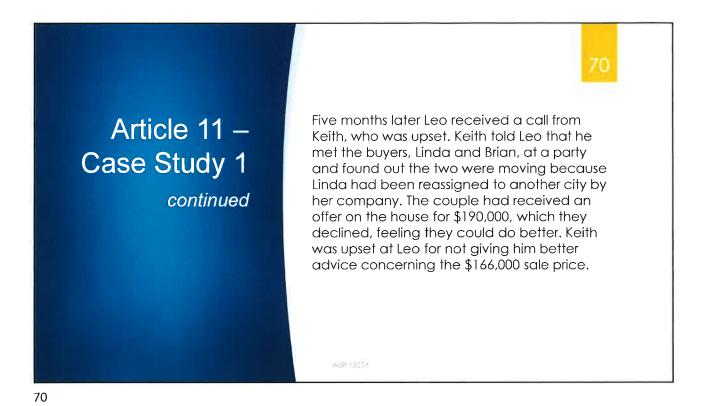
No, not if the seller instructed Bill to keep it confidential.

No, not if the offer included unresolved contingencies.

Yes. Bill's obligation to protect and promote the client's interests controls and Bill should not be found in violation Does Bill's of the Code. obligation under Article 1 to protect Yes. Because Article 1 is a higher priority than Article 3, Article 1 controls. and promote his seller client's interests mean that No. Article 1 also requires that Bill be honest with all parties. This obligation of honesty, along with the he should not requirement of Standard of Practice 3-6, requires Bill to make reveal the the disclosure of the accepted offer. accepted offer? Yes. Article 1 emphasizes fiduciary obligations and overrides any other obligation that potentially conflicts with it.

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#### It was a listing that Leo, a REALTOR®, now wished he had never taken. Keith, Leo's close Article 11 friend, was selling his home and was adamant about having Leo list the property. Leo Case Study 1 appreciated the gesture, but repeatedly told Keith that his experience was in commercial properties and not residential. In addition, Keith's home was in an area of the city that Leo didn't know much about. Leo strongly urged Keith to have the house appraised. Keith insisted he knew the area and that \$166,000 was the home's fair market value. This amount seemed low to Leo, but he listed the house at this price. It quickly sold to a young couple, Linda and Brian. ABR 19234



Article 5

In addition to Article 11, which other Article might apply to this case?

Article 1

Article 2

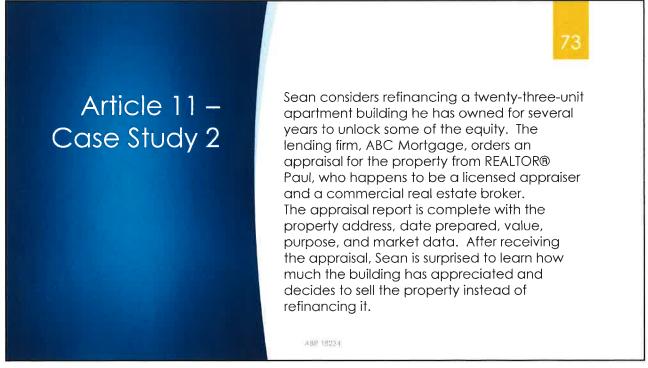
Yes. He failed to do a market analysis when listing the home. In addition, he should have provided Keith an appraisal at his cost.

No. He had no obligation to Keith once Keith insisted on Leo listing the property.

Yes. Even though he told Keith about residential sales being outside his field of expertise, he was also required to "engage the assistance" of a residential real estate broker.

No. He fully disclosed to Keith that he was a commercial broker and that Keith's property was outside his area of expertise. He also recommended that Keith have the property appraised.

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## Article 11 – Case Study 2

Because Sean likes how thorough REALTOR® Paul was with the appraisal process and knowing that he is a commercial broker, Sean hires Paul to represent him as his listing broker. Within one week, an offer is made on the property and accepted.

During the loan application, the prospective purchaser informs the new lender that the property was recently appraised for ABC Mortgage. The lender is surprised to learn that Paul is both the listing broker and the appraiser, and that no disclosure was made about his "contemplated interest" as established in Standard of Practice 11-1.

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As used in Standard of Practice 11-1, does Paul have a "present or contemplated interest" in the property when he does the appraisal?

Yes, as a licensed commercial broker, there always is the chance that Paul could have listed the property in the future.

No. At the time of the appraisal, Sean had no interest in selling the property.

Yes, Paul was paid to conduct the appraisal.

No, ABC Mortgage ordered the appraisal,

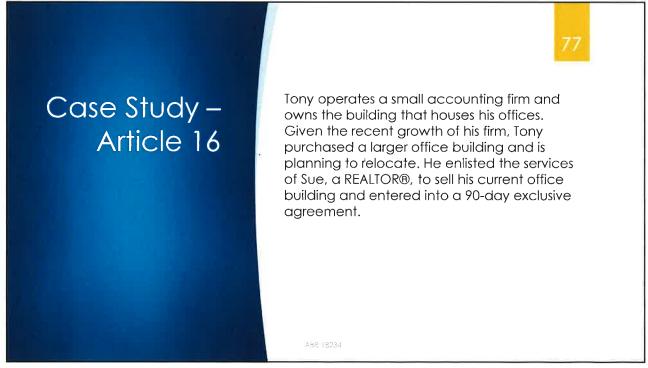
Yes. Paul should have disclosed in the appraisal that he is a licensed broker.

No, Paul provided all of the appropriate information in his appraisal, and at that time, he had no intention of listing Sean's property.

Yes, Paul is not qualified to conduct the appraisal.

Yes, Paul is not qualified to list the property.

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# Case Study – Article 16

Three months later and one week before Tony was to close on the new building, Tony's previous building remained unsold. Sue had shown the property only five times in the three months. "I think I should get another agent," Tony said to Fred, his friend. Fred suggested that Tony talk to Laura, a REALTOR® who had helped Fred sell his office building. Fred told Tony, "I'll give Laura a call, tell her about your situation, and see if she can help."

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# Case Study – Article 16 continued

After Laura received Fred's call, she decided to call Sue to ask when her listing agreement with Tony expired. Laura had heard of Sue but had never spoken to her. When Laura finally reached Sue after leaving several messages, Sue was abrupt, refusing to discuss her listing or disclose when it expired. Laura explained that under the circumstances she could go directly to the seller to get the information, thinking this might elicit a response from Sue. Instead, Sue hung up.

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