

Trying to Sell Without an Agent? Learn From Another Seller's Experience

As much as I like to think sellers benefit from listing their home with a Realtor, I understand their desire to try "For Sale By Owner" (FSBO), and I respect those agents who educate FSBO sellers about the value of hiring a real estate professional.

However, this week I was made aware of an apparent "bait and switch" by an agent who secured a FSBO listing by making a promise he didn't put in writing. I've never heard of this before, but I thought it worth sharing so we can all learn from it. Overall, I've found that agents, and especially Realtors (members of a Realtor association), are diligent about law and ethics.

I only know what the seller told me, but I have no reason to question what he told me. He told me that he had posted his home on craigslist starting last fall. In May an agent convinced him to sign a listing agreement, promising the seller he could still sell the home himself and not owe any fee or commission.

Such an agent-seller relationship is referred to as "Exclusive Agency" instead of "Exclusive Right." Yes, it's a little confusing. The relationship involves executing **both** the standard listing agreement **and** an addendum which contains the following: "...**this Listing Contract does not apply to a Sale or Lease of the Property to a buyer or tenant procured solely by Owner without the assistance of Broker...**"

The seller called me for advice after he told his agent that he had secured a buyer through his craigslist ad, and the listing agent said he would handle the transaction and a commission would be charged per the signed contract.

As I investigated further, I discovered that the agent had presented the standard listing agreement without that addendum. Did he do that on purpose? His actions suggest so.

Sellers shouldn't have to know the ins and outs of the different contracts and addenda used in the sale of residential real estate. We licensees must know these contracts and utilize them responsibly, explaining their

provisions to our clients. What this particular licensee appears to have done was unconscionable, un-ethical and possibly illegal.

Fortunately for the seller, the agent had included a provision in the listing agreement that the seller could terminate the contract for any reason if he was "dissatisfied" with the agent's performance, so I advised the seller to send the agent an email terminating the contract under that provision. The agent then claimed that the seller had violated the contract by not referring a buyer to him and by terminating the contract in order to avoid paying a commission.

Because the seller had signed the contract without the addendum, this was factually true, but I couldn't believe that the agent was compounding his bad behavior by pressing that point.

The agent said he would pursue legal action against the seller, and file a complaint against the seller with the Division of Real Estate, which makes no sense since the DRE only disciplines licensees, not consumers. He also threatened to file ethics charges against me for my role in advising the seller.

It is regrettable that there are Realtors such as this one who, if this story is true, brings dishonor on our industry and on the Realtor association by this kind of behavior.

I sent the seller — who I still haven't met, only spoke with him on the phone and exchanged emails — a link on the DRE website for filing an online complaint against the licensee, and the seller did file a very articulate complaint, which I hope results in the agent being disciplined if the investigator verifies the complaint.

If you have been similarly victimized by the unethical and/or illegal behavior of a real estate licensee, don't just accept that. Contact the Division of Real Estate and/or the local Realtor association. Please don't let such behavior by one real estate professional sour you on the benefits of employing an honest and ethical agent, which most of us are. We really do offer value when we obey the rules.

REAL ESTATE TODAY



By **JIM SMITH, Realtor®**

Get a Tesla for About Half-Price!



This is my 2014 Tesla Model S, purchased in March 2014 for \$93,920. Because I now own a newer Model S with all-wheel drive and autopilot features, I'm selling this one for just over half price — \$49,500. The Kelly Blue Book value based on mileage and condition is over \$51,000. Call me at 303-525-1851 for a free test drive.

This Week's New Listing from Golden Real Estate

Walk to CSM from this Home in Golden's Beverly Heights

Beverly Heights is a favorite neighborhood for professors and other members of the Colorado School of Mines community. And this home at **1835 Parfet Estates Drive** is just a short walk across US Hwy 6 from the CSM campus. By this time next year Hwy 6 will be running under 19th Street, providing safe and easy pedestrian access to the campus. This 1996 home is one of three homes that were exempted by the developer from the HOA serving Parfet Estates Drive and the two cul-de-sacs off it. The home has four bedrooms upstairs, an unfinished basement, and a beautifully landscaped backyard. An earthen berm quiets the traffic noise from Hwy 6, which will be even quieter once the road is rebuilt under the new grade-separated intersection. The peaceful backyard is great for entertaining. It has a durable concrete tile roof and a 3-car tandem garage. Treat yourself to the narrated video tour, including drone footage of the home and neighborhood at www.BeverlyHeightsHome.com, then come to our open house this **Saturday, 1-4 p.m.**



Buy Your 4th of July Lions Club Raffle Tickets at Our Office

One of Golden's cherished traditions is the 4th of July raffle, with winners of over 200 donated prizes — including a Superbowl XXXIII football signed by John Elway — announced on stage in Lions Park between performances by various bands. There is a \$1,000 cash prize too! All prizes are donated, so that the proceeds of the raffle support the good works of the Golden Lions Club. You can buy your tickets from any Lions Club member and at the Golden Real Estate office, 17695 S. Golden Road. Tickets are \$1 each, or six for \$5.

The Lions Club is also raffling a Harley-Davidson Road King motorcycle, which is on display at the Buffalo Rose, 12th & Washington. Only 300 tickets at \$100 each are being sold. This drawing is on Oct. 31st.

You don't need to be present at the drawings to win.



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