Can agents post on social media that a listing is under contract without the listing agent's permission?

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QUESTION: We have had several complaints within our association about agents advertising on social media about getting a property under contract for their client when that property is not their own listing. There is no reference in the social media post to the listing agent or their firm. Does this practice violate the REALTOR® Code of Ethics?

ANSWER: As long as the buyer agent does not include any information about the contract price, and as long as the post does not present content (such as a listing photo) developed by others without their consent (see Standard of Practice 12-10), we think this practice does not violate the Code of Ethics.

Article 12 of the REALTOR® Code of Ethics is the advertising article. It obligates REALTORS® to be honest and truthful in their real estate communications, and present a "true picture" in all of their advertising. If the agents you describe did get the subject properties under contract for their clients, there is nothing dishonest about their posts.

However, that is not the end of the inquiry. Standard of Practice 12-4 imposes additional obligations on REALTORS®. It states that REALTORS® "shall not offer for sale/lease or advertise property without authority." In your situation, the listing agents who are complaining to you clearly did not authorize the social media posts of the buyer agents.

We have written about Standard of Practice 12-4 before, including in the context of social media posts. Those Q&As can be accessed here and here. The questions addressed in both of those Q&As clearly involved the advertising of listings without authority. Here, however, the purpose of the social media posts was NOT to advertise the listings in question but instead to promote the buyer agent's business. The buyer agents were not seeking to find a buyer for the property depicted in the post; they already had a buyer under contract and were promoting that accomplishment. And the fact that a property is under contract is no secret. Listing agents are required to report that fact to any MLS where the property was listed. Since the social media posts were not offering property for sale or advertising property, we do not see a violation of Article 12.

That does not mean that there are no limits. We have heard of buyer agents advertising on social media that they were able to put a specified property under contract "below list price" and even "x amount below list price." Unless these posts were made with the buyer-client's consent, they potentially violate both the Commission's offer-shopping rule (58A .0115) and Article 1 of the Code of Ethics. While the posts are honest, an unintended effect may be to encourage other agents to solicit and present competing back-up offers. If accepted, the resulting back-up contracts could influence the contract between the seller and the agent's client. And by inviting such offers, the agent posting their "accomplishment" on social media is putting their own interests ahead of their client's. That would be a violation of Article 1 which states that a REALTOR®'s obligation to "protect and promote the interests of their client" is primary.

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