

A homeowner listed his home for sale with a real estate broker. The written six-month exclusive-right-to-sell listing agreement provided for the payment of a commission if the home sold.

In accordance with the listing agreement, the broker promptly took reasonable steps to market the home, incurring expenses for her efforts. Five months into the listing period, without involving the broker, the homeowner accepted an offer to purchase from his cousin. The broker learned of the contract only when the sale of the home to the cousin closed, one month after the listing period had expired.

Is the broker entitled to any payment?

- A. No, because the broker engaged in no negotiations with the cousin.
- B. No, because the closing occurred after the listing period had expired.
- C. Yes, but only reimbursement for her expenses.
- D. Yes, the full commission, because the homeowner accepted the cousin's offer to purchase during the listing period.

Explanation:

A **real estate broker** is someone employed by a seller to handle the sale of real property. The employment agreement is typically referred to as a **listing agreement**. There are **three types** of listing agreements:

Open – where the seller may use other brokers to sell the listed property and the commission goes to whichever broker finds a buyer during the listing period

Exclusive agency contract – where the seller can find a purchaser and, if the seller does so without the broker's assistance, the broker receives no commission

Exclusive right to sell – where the commission goes to the broker if the property is sold during the listing period, no matter who finds the buyer

Unless the listing agreement states otherwise, the broker is **entitled to commission** if (1) a **ready, willing, and able buyer** is **produced** or (2) the **seller enters into a sales contract** with a buyer during the listing period. This is true even if the buyer backs out of the sale or the sale is not otherwise closed (**Choice B**).

Here, the homeowner and broker entered into an *exclusive-right-to-sell* listing agreement. The homeowner entered into a contract of sale when he accepted the cousin's offer to purchase the home during the listing period. As a result, the broker is entitled to the *full* commission—regardless of whether the broker engaged in negotiations with the cousin (**Choices A & C**).

Educational objective:

A real estate broker is entitled to commission if (1) a ready, willing, and able buyer is produced or (2) the seller enters into a sales contract with a buyer during the listing period.

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