

## Legal Questions & Answers

February 2015

Question: A seller would like to offer a vacation package as an incentive to prospective buyers. Is this legal, and, if so, what is the appropriate method to market such an incentive?

Answer: The seller is entitled to offer an incentive to a buyer. The marketing materials for the property should clearly reflect the offered incentive and the fact that the seller's incentive is contingent upon his or her acceptance of the buyer's offer to purchase.

Question: My broker received two offers from other brokers on her listing and the seller accepted the offer with the best price. Upon receipt of the prequalification letter, she noticed that the loan was contingent upon the sale of the buyer's current property, which contingency was not mentioned in the earnest money agreement. Lines 81-82 state that the buyer is not relying on the sale or close of another property. Accordingly, the seller wishes to accept another offer. The seller signed a termination due to this non-disclosure; however, the buyer refuses to sign the termination. What is our next step?

Answer: If the prequalification letter is not subject to the seller's approval, and the offer is not contingent upon the sale of another property, the transaction is in all likelihood binding. The offer should be carefully reviewed by experienced real estate legal counsel for the seller to determine whether the transaction may be unilaterally terminated by the seller based upon the prequalification letter.