

If the listing broker's agreement does not cover a sale then you and the listing broker try to work out an agreement covering representation and commissions before proceeding with negotiations. If you cannot reach an agreement you proceed with the transaction. If after the closing of the transaction an agreement still cannot be reached either broker may start an arbitration proceeding. Article 5.1(c).

In the scenario set out above the procuring broker did not contact the listing brokers to determine if a sale transaction was covered by the listing agreement. He, instead, went directly to the property owner with the offer to purchase. The listing brokers learned of the transaction soon after escrow was opened. They immediately contacted the procuring broker to protest his conduct and to assert their claim to one half of the commission to be paid. The procuring broker refused the claim. The listing brokers did not attempt to interfere in the sale transaction. As the close of escrow approached the managers of the respective firms attempted to reach an agreement but were unsuccessful. The procuring firm offered 25% of the commission soon after the closing. This was rejected by the listing firm who then filed for arbitration. After exchanging the required case information the parties finally reached a settlement that resulted in the listing broker receiving 50 % of the sale commission.