

## TOPIC 2

# Laws of Agency



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## EXAM TOPICS

### TOPIC 2: GENERAL PRINCIPLES OF AGENCY (Salesperson 13% | 11 Questions)

#### A. Agency and non-agency relationships

1. Types of agents and agencies
2. Other brokerage relationships (non- agents)
  - a. Transactional
  - b. Facilitators

#### B. Agent's duties to clients

1. Fiduciary responsibilities
2. Traditional agency duties (COALD)
3. Powers of attorney and other delegation of authority

#### C. Creation of agency and non-agency agreements; disclosure of conflict of interest

1. Agency and agency agreements
  - a. Key elements of different types of listing contracts
  - b. Key elements of buyer brokerage/tenant representation contracts
2. Disclosure when acting as principal or other conflict of interest

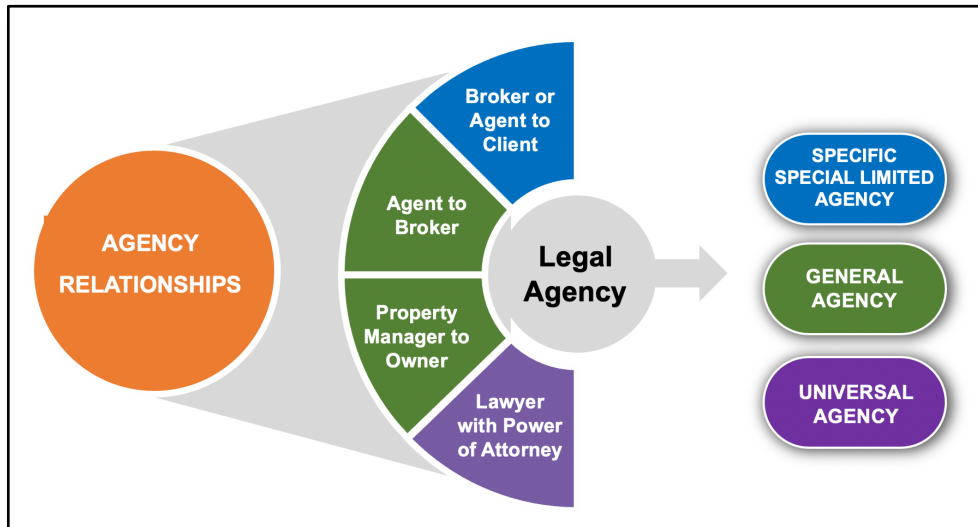
#### D. Responsibilities of agent to customers and third parties, including disclosure, honesty, integrity, accounting for money

#### E. Termination of agency

1. Expiration
2. Completion/performance
3. Termination by force of law
4. Destruction of property/death of principal
5. Mutual agreement

## AGENCY INTRODUCTION

In real estate, **agency** is a **legal and special relationship** of trust and confidence (known as fiduciaries) between the client (aka principle typically the seller, buyer, landlord or tenant) and the licensed broker or salesperson (the agent of the principal on behalf of the broker in brokerage business).



The legal relationships in real estate agency include specific|special|limited agency (specific task and duties), General Agency (multiple and Universal Agency

### The real estate agency fiduciaries include:

(these are typically summed up with acronym 'COLD' A/C or 'COALD')

**C**are

**O**bedience

**L**oyalty

**D**isclosure

**A**ccounting

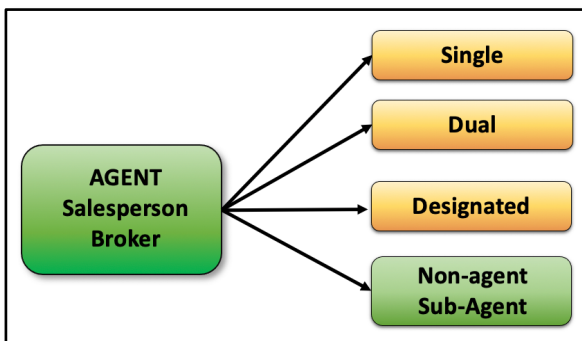
**C**onfidentiality

(NOTE: For 'COALD' combines **O**bedience and **C**are together under **O**)

## TYPES OF AGENTS AND AGENCIES

### TYPES OF AGENTS

**AGENT:** A licensed real estate salesperson who acts on behalf of another person known as the principal/client. The agent is the employee to the client (employer) and has specific or special legal relationship with the client. The agent works on behalf of the Broker in a brokerage firm. The agent is an 'authorized representative' of the Broker in the Brokerage firm. Alternative names for the agent are:



- Sales Agent
- Real Estate Associate
- Real Estate Professional (covers both Salesperson or Broker)

- REALTOR® (a real estate professional that is a member of N.A.R)

**BROKER-AGENT:** A licensed real estate professional with broker status who act behalf of another person known as the principal/client. The broker professional is the employee to the client (employer) and has specific or special legal relationship with the client. The broker professional works for the broker owner(s) of the brokerage and although has broker status, preforms and serves in the same fashion as does the agent/salesperson associate. The broker associate professional is an 'authorized representative' of the Broker in the Brokerage firm. Alternative names for the agent are:

- Broker Associate
- Real Estate Broker Agent
- Real Estate Professional (covers both Salesperson or Broker)
- REALTOR® (a real estate professional that is a member of N.A.R)

**SUB-AGENT:** A (Sub)ordinate-Agent is a specific relation between a listing brokerage broker/salesperson and another broker/agent bringing buyer client to purchase the listing property. In sub-agency, the selling broker/agent brining the purchasing buyer is actually working for the seller of the listed property and oftentimes does not have a written agreement making the sub-agent (broker/agent bringing the buyer) a volunteer. The sub-agent is authorized to act in the place of the broker/agent that represents a seller(client) An agent of an agent.

**Example:** A salesperson is the sub-agent of the broker who is the agent of the seller or buyer. A co-operating broker (selling broker) may become a sub-agent of the listing broker if they both agree to represent the seller.

**SELLER'S AGENT:** An agent/broker who is contracted with a seller-client (employer) in a **listing agreement** acting solely on behalf of the seller. Seller agency refers to the seller-client (employers) entitlement to find a buyer in the absence of agent and thusly is not bound to pay any commission.

**BUYER'S AGENT:** An agent/broker who is contracted with a buyer-client (employer) in a **buyer-agency agreement** acting solely on behalf of the buyer(client/employer). Buyer

Agency refers to the buyer-client (employers) entitlement to find a seller in the absence of agent/broker and thusly is not bound to pay any commission derived from the seller.

## TYPES OF AGENCY

Based on the level of authority delegated to the agent/broker-professional, there are three (3) general types of agency from the legal perspective which are **special | specific | limited, general and universal.**

LEGAL RELATION BETWEEN		LEGAL RELATIONSHIP
BROKER or SALESPERSON	CLIENT	SPECIFIC OR SPECIAL
SALESPERSON	BROKER	GENERAL
PROPERTY MANAGER	OWNER	GENERAL
LAWYER w/POWER OF ATTORNEY (ATTORNEY IN FACT)	CLIENT	UNIVERSAL

**SPECIFIC | SPECIAL | LIMITED AGENCY:** Specific agency refers to a client (principal/employer) that hires or engages authority for one specific task (buy, sell, lease, etc.) to the agent/broker for a property to which the agency is then terminated once that task is completed.

**GENERAL AGENCY:** In general agency, the principal delegates continuous and on-going range of tasks and functions within a firm.

**Example:** A property manager performs a range of tasks and functions such as vendor, advertising, leasing, tenant eviction, maintenance, marketing, accounting and so forth for the owner.

Another example would be a salesperson/agent that works with clients performing a range to tasks with clients for leasing, buying, selling, property exchanges, conducting open house showings on behalf of the broker in a brokerage.

**UNIVERSAL AGENCY:** In a universal agency relationship, the principal empowers (via Power of Attorney document) the agent/broker to perform tasks and actions that are full authority based enabling the agent/broker to sign on behalf of the principal.

**Example:** An agent/broker with Power-of-Attorney over buyer where the agent can sign as the buyer.

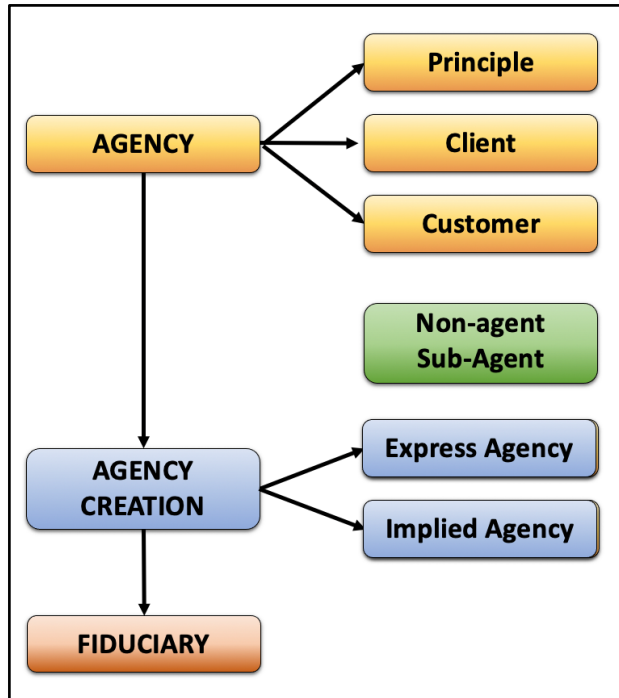
A lawyer with Power-of-Attorney over a client selling real property empowers the lawyer to sign documents and execute contracts as if the lawyer were the client.

**Power-of-attorney** is a legal document that authorizes one person (not necessarily a lawyer) to act in place of and authorized to sign documents on behalf of another person and is also known as '**Attorney-in-Fact**'

Other key "attorney" definitions:

- An **Attorney** is someone who legally represents another person (not necessarily a lawyer)
- **Attorney Pro-Se:** Person representing themselves.
- **Attorney-In-Fact:** Person with documented "power-of-attorney" to sign/act on behalf of another in business-related transaction. The power-of-attorney document would also specify **durable** (valid if person is not dead, but incapacitated, missing, etc.) and **non-durable** (not valid if person is incapacitated, missing or dead)

- **Attorney-At-Law:** Lawyer (legal practitioner or counselor) that has graduated from law school, passed the bar and is a member of the court and represents clients in a court of law and act for clients in other legal matters.



**DUAL AGENCY:** Agent represents both seller and buyer in the same transaction but only with the knowledge and informed consent, in writing, of both the seller and the buyer. Dual agency can be:

[a] **Single Agent:** One agent in a brokerage representing both buyer (tenant) and seller (landlord) for the same transaction.

[b] **Two Agents:** One agent in a brokerage represents the buyer and another agent in the same brokerage represents the seller (landlord) for the same transaction.

In a **dual agency** transaction within a brokerage:

- The Broker (firm owner) is considered a dual agent
- The one agent representing both buyer & seller is a dual agent.

- The two agents representing buyer by one agent and seller by another agent are both dual agents.
- All other agents and brokers in the brokerage firm are considered dual agents.
- A formalized **Dual Agency Agreement** must be signed by both seller and buyer and each receives an inked copy as well as the brokerage firm.

**DESIGNATED AGENCY:** Designated agency is borne out of one salesperson/broker representing both Seller and Buyer (Landlord and tenant) and one of the two parties does not wish to be represented by the same salesperson/broker and the firm broker owner designates one salesperson to represent the buyer (tenant) and another salesperson designated to represent the seller (landlord). A Dual Designated agreement must be signed and provided to both parties.

In a **designated agency** transaction within a brokerage:

- The Broker (firm owner) is considered a dual agent
- The designated seller agent is considered a designated agent for the seller.
- The designated buyer agent is considered a designated agent for the buyer.
- All other agents and brokers in the brokerage firm are considered dual agents.
- A formalized **Dual-Designated Agency Agreement** must be signed by both seller and buyer and each receives an inked copy as well as the brokerage firm

**EXPRESS AGENCY:** An agency that is generally expressed as a formal relationship agreement between two parties. Typically, express agency is in writing but can be verbally agreed in some states. In Connecticut, express agency must be formalized in writing and signed by both parties. Express agency in real estate are formalized in the following contract types:

1. **Exclusive Right to Represent the Seller. (ER)**
2. **Exclusive Agency Seller Agency. (EA)**
3. **Open Agency Seller Agency (OA)**
4. **Exclusive Right to Represent the Buyer (Tenant)**
5. **Exclusive Agency Buyer Agency**
6. **Open Agency Buyer Agency**

**IMPLIED AGENCY:** An agency (relationship) that is expressed in actions or behavior agreed by both parties and generally is not formally expressed in writing.

**TRANSACTION COORDINATOR | FACILITATOR:** A licensee who is **not acting as an agent** of either the buyer or the seller. A licensee may act as a transaction coordinator upon full disclosure to all the parties to the transaction. Generally, a **facilitator (transactional broker or non-agent)** is not a licensee and provided no real estate services but instead provides information that is otherwise within the public domain and available in public record.

## **AGENTS DUTIES TO CLIENTS**

### **FIDUCIARY RESPONSIBILITIES**

In real estate practice, there are either customers (third party unsigned buyers, tenants, etc.) or clients (a principal with signed agency agreement buyers, tenants, etc.).

**CUSTOMER:** are third party unsigned agreement with buyers and tenants who are seeking real estate services to which the brokerage firm, agents and brokers owe fairness and honesty. Agents and brokers in this relationship can offer and provide any publicly available information about properties.

**CLIENT:** are third-part signed-agreement with buyers and tenants (seller/landlord/principal) to which the agent/broker owes special trust and confidence relationship that are summarized in (COLD AC)

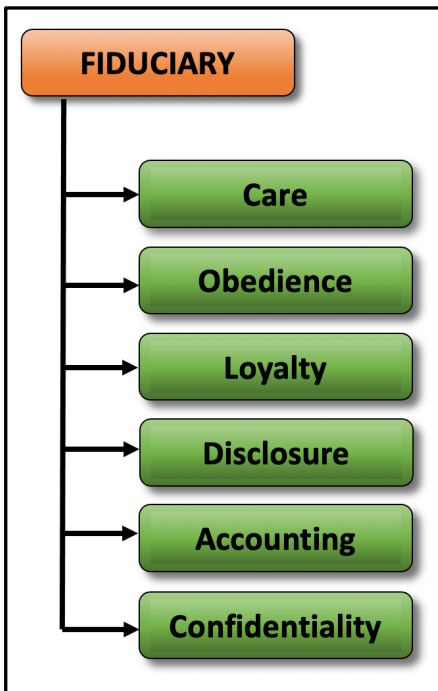
**CARE (SKILL & DILLIGENCE):** the real estate sales professional is expected to perform his or her duties with diligence and reasonable competence and care.

The real estate agent is expected to extend and provide care in looking up things within reasonable abilities and an effort to attempting to avoid damage or risk to the client.

The concept behind this is that the real estate professional will use his or her knowledge experience and expertise to benefit the client. Both the broker and salesperson professional must offer advice within their field of expertise.

**Example:** if a client requests to know what building or structure is being built across the street from a prospective purchase, the real estate professional is duty-bound to look up and count all 10 wrecked town records or land records what structures is being built across the street and inform the client.

**OBEDIENCE:** the fiduciary duties for obedience occurs when the real estate professional is required by law to act honestly and fairly and in good faith of being client wishes that are all lawful.



Any instructions by the real estate professional that are not lawful or violate moral or ethical standards do not have to be followed and are typically not followed.

**LOYALTY:** the first used the fiduciary duties of the real estate professional for loyalty takes place when the real estate professional is required by law to place his or her interest of the client above that of his or her own.

Real estate professionals are required to provide in writing any interest in any property that the client may be interested in before making any offers or other claims. Self-interest by real estate professionals is a violation of loyalty. And is considered self-interest.

**DISCLOSURE:** the fiduciary duty of disclosure occurs when the real estate professional is required by law to keep the client informed of all facts and information that

could impact the client's decision in the transaction. Material facts are part of disclosure.

**Material facts** is very broad in definition and essentially equates to any fact or piece of information that could persuade or dissuade the client from making a cogent decision.

The rule of thumb for real estate professionals is to disclose everything and anything that may have any impact on the client's decision. This all should be done in writing.

**ACCOUNTING:** the fiduciary duty of accounting occurs when the real estate professional is required by law to keep records of all costs, funds and other monetary considerations for the client. Accounting records are typically held and maintained under this fiduciary

responsibility. In the state of Connecticut, deposits and other earnest monies are required to be placed in escrow within three banking business days after both buyer and seller have signed preliminary finding or purchase and sales contract agreement.

**CONFIDENTIALITY:** the fiduciary duties of confidentiality occurs both during and after the real estate transaction has occurred.

The real estate professionals required by law to keep their client's affairs finances situation or anything about the client in confidence during and after the transaction. This is the only fiduciary responsibility that extends beyond the great agency relationship between the client and the real estate professional and brokerage.

**Example:** if your client informs you that they are filing for bankruptcy and are selling their property and find themselves two years later as a buyer to your new client the seller then the real estate professional is obligated not to disclose the previous clients financial or economic status unless that information could be found out at that time in the future.

## CREATION OF AGENCY

Agency relationships can arise from express oral or written agreements between the principal and the real estate professional or from behaviors and actions of the either/both parties.

**Express Agency** A legal express agency relationship between a real estate professional and client can be created either verbally or in written form for many states. In Connecticut, 'express agency' must be in written form and signed by both parties. Listing and Buyer Broker agreements are examples. The agreement sets forth the various authorizations and duties, as well as requirements for compensation.

**Implied Agency** An agency relationship can arise by implication, intentionally or unintentionally. Implication means that the parties act *as if* there were an agreement. For example, if an agent promises a buyer to do everything possible to find a property at the lowest possible price, and the buyer accepts the proposition, there may be an implied agency relationship even though there is no specific agreement. Even if the agent does not wish to establish an agency relationship, the agent's actions may be construed to imply a relationship.

## Responsibilities of AGENT TO CUSTOMER & THIRD PARTIES (INCLUDING DISCLOSURE, HONESTY, INTEGRITY & ACCOUNTING FOR MONEY)

- Although an agent has a fiduciary duty to the client, s/he must be fair and honest with



the customer and any third parties.

- Disclosure of nonmaterial facts to a customer such as a divorce, transfer, murder or suicide that may have taken place at the property can only be done with client's approval. But the agent cannot remain silent regarding material facts such as a bad furnace, Water heater, roof leak, etc.
- State law requires agents to fully account for all monies (earnest money) received from buyers and tenants as well. Full accounting must be provided and the broker's accounting books can be audited by the DCP/REC state agency.

## TERMINATION OF AGENCY

### EXPIRATION

- According to state law, a listing or a buyer agency agreement must have a definite expiration date, for example: this agreement should expire October 31st 20XX.
- Upon expiration, the agency relationship is terminated unless the client signs a new agreement.
- More discussion will follow under State rules and regulations.

### COMPLETION/PERFORMANCE

When the contract with the client is fully performed, i.e. the listed property is sold, or if the buyer/client finds the property he is looking for, the contract with the client is considered to be terminated.

### TERMINATION BY FORCE (OPERATION) OF LAW

- If the contract with the client was signed under duress or as a result of fraud, a court of law may declare it to be null and void.
- Under certain circumstances the listed property may be taken over by court such as in the case of foreclosure, bankruptcy, condemnation, etc.
- The **Insolvency (Bankruptcy)** of the broker will result in termination of agency because the listing is a contract that requires personal service, therefore if the broker (Brokerage) who has the listing (not the salesperson) is no longer in operation because of bankruptcy, loses his license, etc.

### DESTRUCTION OF PROPERTY/DEATH OF PRINCIPAL

- **Destruction of property** leads to a concept known as —impossibility of performance. If the property burns down and gets demolished, this will be a reason

to terminate the listing.

- **Death/insanity of the principal** or the broker results in termination of agreement because the listing /buyer agency agreement requires personal performance of the parties. If either party cannot perform, the contract terminates.

### **MUTUAL AGREEMENT**

- Broker and Client may mutually agree to terminate the agency relationship for various reasons such as a decision by the owner to take the property off the market or a buyer/client who may choose to stop looking to buy property.

END

**NATIONAL TEST TOPIC #2a**  
**REAL ESTATE AGENCY #2a**  
**2020 Practice Classroom Quiz**



1. Which of the following is true regarding an open listing given to 4 different brokers if one of them sold it?
  - A. They all split the commission.
  - B. 50% of the commission goes to the one who sold it and the other 50% is distributed between the other brokers.
  - C. An open listing is illegal.
  - D. Only the broker who sold the property receives a commission and the others get nothing.
  
2. All but which one of the following are proper responsibilities of the listing agent?
  - A. Loyalty to the principal
  - B. Due diligence and skill
  - C. Accounting for funds and indemnification
  - D. Obtaining the best possible financing for the buyer
  
3. Listing agent knows that seller is anxious and willing to take less than the listing price. The buyer asks if the agent recommends any other price besides the asking price. Agent must:
  - A. Be honest and indicate that seller will accept less.
  - B. Tell the buyer that seller indicated that he will not accept less under any circumstances.
  - C. Tell the buyer that he could make an offer but the agent can guarantee nothing.
  - D. Call the seller and ask him if he should tell the buyer that the seller will take less.
  
4. As a buyer's agent, a broker feels that property is overpriced, but buyer indicates willingness to offer full price. Broker must do which of the following?
  - A. Have the buyer sign a full price offer and present it to the seller for a fast sale.
  - B. Tell the buyer to offer less and not present an offer unless the buyer agrees to lower the price.
  - C. Advise the buyer as to what the fair market value should be and leave it up to her.
  - D. Urge the buyer to offer full price because the broker always has duty to the seller, no matter what type of agency is created.

5. As agent of the buyer, you know that a certain bank is offering lower interest rates than what the buyer thinks he can get from another lender where the mortgage loan officer is a friend of the buyer. Your duty is to:
- A. Leave the buyer alone, since he is a client and should not be bothered.
  - B. Contact the loan officer directly and tell him.
  - C. Inform the buyer of the other lender's rates and urge him to take the savings.
  - D. Ignore the lower rates, since that will cause delays in financing and hard feelings between the two friends.
6. A broker is hired under an exclusive right-to- sell listing agreement and later is told by the owner that the owner's daughter is buying the house directly from the father. The broker should:
- A. Terminate the listing.
  - B. Insist that the daughter write the offer through the broker's company.
  - C. Inform the seller that he will owe a commission.
  - D. Advise the seller to wait until the listing expires six months later, then sell the property to his daughter in order to avoid paying a commission.
7. A person who authorizes another person to act on his/her behalf is called:
- A. The salesperson
  - B. The fiduciary
  - C. The agent
  - D. The principal
8. An agent of the seller is not responsible for telling a prospective buyer that:
- A. House has a potential structural defect.
  - B. Zoning makes the potential use of property non-conforming.
  - C. Inspection of a house has shown some signs of termite damage.
  - D. An owner will accept less for a property than what it is listed for.
9. After showing a property a number of times and not securing an acceptable offer, the broker decides to buy the property himself. He must do which of the following?
- A. Wait until the listing expires and then submit an offer to purchase
  - B. Make his/her true position known to the seller
  - C. Buy it through a third party
  - D. Must split the profit with the owner
10. The listing broker owes a direct fiduciary responsibility to whom?
- A. The listing salesperson
  - B. The buyer
  - C. The listing owner
  - D. The cooperating broker
11. A sub-agent of a seller would best be described as which of the following?
- A. Special agent
  - B. General agent
  - C. Transaction coordinator
  - D. Designated agent

12. The best description of a special agent would be a person who:
- A. An attorney
  - B. A broker
  - C. Has limited authority
  - D. Contractual authority
13. If a prospective buyer makes an offer that is much lower than the listed price, the broker must do which of the following?
- A. Try to persuade the seller to accept it
  - B. Present the offer to the seller
  - C. Do not accept the offer
  - D. Accept the offer and wait until other offers on the property are made before presenting it to the seller
14. An owner requests a broker to list a property for sale at \$70,000. Upon inspection, the broker believes the property is worth \$80,000. The broker should:
- A. Get a net listing for the property at \$70,000
  - B. Buy the property for \$70,000
  - C. Inform the seller that the property is worth \$80,000
  - D. Suggest that the owner list the property for \$75,000 so that there will be room for bargaining
15. Termination of listing by force of law applies to which of the following?
- A. Property is condemned by the city
  - B. Property is hit by tornado, only the basement is left
  - C. Listing had expired
  - D. Property is sold and closed
16. The broker's responsibilities in presenting to the seller a written offer to purchase include:
- A. Making known to the seller all written offers before seller accepts an offer
  - B. Making known the legal ramifications and practical effects of an offer
  - C. Advise the seller as to the tax consequences of the sale
  - D. Advise the seller to reject the initial offer in an effort to get a higher price
17. All but which one of the following are proper responsibilities of a real estate agent?
- A. Loyalty
  - B. Indemnification
  - C. Financing
  - D. Accounting for Funds

18. A broker (seller's agent) informs his/her salespeople of a leak in a roof of a property that is listed with his/her office. This fact is also made known to a subagent who cooperates with the listing office and sells the property, but does not tell the buyer about the leak and the buyer does not learn about the leak until after the closing. All of the following are liable for failure to disclose this information except the:

- A. Listing broker
- B. Seller
- C. Selling salesperson
- D. The buyer

19. Listing owner tells broker that he will not pay him a commission because the seller sold the property himself, most likely the seller has signed

- A. An exclusive right to sell
- B. An exclusive agency listings
- C. A limited service listing
- D. A short term listing

20. A salesperson responds to an ad in the paper by a -For Sale by Owner. The owner gives the salesperson a key to inspect the property being sold. What type of agency is thereby created?

- A. Fiduciary
- B. Implied agency
- C. Contractual
- D. None

21. In a multiple listing, a salesperson that negotiates a sale is directly responsible to:

- A. Listing broker
- B. His/her or her employing broker
- C. Cooperating salesperson
- D. The seller

22. As agent of the seller, a real estate broker is usually authorized to do all except which of the following?

- A. Bind the principal under a sales contract
- B. Advertise the listed property
- C. Place a -for sale sign on the listed property
- D. Cooperate with the other brokers to effect a sale

23. A seller tells his or her broker that termites have destroyed the floor and that the swimming pool is in violation of the city setback requirement. Furthermore, the seller indicates that the neighbor's garage encroaches 3 inches over his property line and that he is anxious to sell the house because he's being transferred. The broker's salesperson is required to disclose to a buyer all of the following except:

- A. Condition of floor
- B. Pool violation
- C. The transfer
- D. The encroachment

24. Sarah and David work for Nutmeg Realty. Sarah listed a house and was designated as a seller's agent, David obtained a buyer agency contract and was designated as a buyer's agent. In the event that David's buyer buys Sarah's listing, which licensee of the company becomes a dual agent?

- A. Sarah only
- B. David only
- C. Both Sarah and David
- D. Their broker

## Answers – TOPIC 2a – LAWS OF AGENCY (2a)

1. D
2. D
3. C
4. C
5. C
6. C
7. D
8. D
9. B
10. C
11. A
12. C
13. B
14. C
15. A
16. A
17. C
18. D
19. B
20. D
21. B
22. A
23. C
24. D



**NATIONAL TEST TOPIC #2b**  
**REAL ESTATE AGENCY #2b**  
**2020 Practice Classroom Quiz**



- 1. A property manager is hired to manage a property while the owner is overseas for two years. The property manager is a(n)**

  - A) general agent.
  - B) special agent.
  - C) universal agent.
  - D) attorney-in-fact.
  
- 2. A licensee is helping a buyer and seller fill out a sales contract but is not representing either party. The licensee is a(n)**

  - A) transactional broker.
  - B) designated broker.
  - C) traditional broker.
  - D) unlicensed broker.
  
- 3. A broker who represents a seller under an exclusive agency listing receives two offers for the property at the same time, one from one of his salespeople and one from the salesperson of a cooperating broker. What should the broker do?**

  - A) Submit the offer from his salesperson first
  - B) Submit the offer from the other salesperson first
  - C) Submit the higher offer first
  - D) Submit both offers at the same time
  
- 4. A broker's newest salesperson lists a unit in a condominium building for sale. In this transaction, the salesperson**

  - A) has a direct contractual relationship with the owners of the unit.
  - B) acts on behalf of the broker.
  - C) acts on behalf of the condominium association.
  - D) must personally find a buyer for the unit to obtain a share of the commission.
  
- 5. A licensee who represents the seller is showing a house to a prospective buyer-customer. The licensee knows that the house has water problems in the basement. Which of the following is *TRUE*?**

  - A) Withholding the information properly protects the confidence of the seller.
  - B) Disclosing the information could create a fiduciary relationship with the buyer.
  - C) Withholding the information prevents the buyer from making an informed decision.
  - D) Disclosing the information violates the licensee's fiduciary duty to the seller.

**6. A licensee who is the agent of the buyer should do which of the following?**

- A) Disclose to the seller that the buyer is a minority person
- B) Disclose to the seller the maximum price the buyer is willing to pay
- C) Present to the seller only offers that are acceptable
- D) Advise the buyer if the listing price of the seller's house is unrealistic

**7. A licensee sells property listed by another brokerage firm in the multiple listing service. The licensee has been working with the buyer for many months but does not have an agency contract with him. This licensee has fiduciary obligations to**

- A) the seller.
- B) the buyer.
- C) no one.
- D) the public.

**8. A licensee shows properties listed for sale with her company to a prospective buyer. The buyer has refused buyer representation. The buyer is the licensee's**

- A) client.
- B) principal.
- C) customer.
- D) fiduciary.

**9. A man's house has been listed for sale for more than one year and he is very anxious to move into a retirement community. A licensee, who is a subagent of the seller, tells a prospective buyer to make a low offer because she is sure that the seller will accept it. Regarding the licensee's conduct, which of the following is *FALSE*?**

- A) She acted appropriately to get the seller's property sold.
- B) She violated her fiduciary duty to the seller.
- C) Her conduct implies she is representing the buyer.
- D) She should not assume that an anxious seller will accept a lower offer.

**10. The type of agency practiced in which there is only ever one client is**

- A) designated agency.
- B) disclosed dual agency.
- C) exclusive buyer agency.
- D) single agency.

**11. When a principal told her licensee not to advertise her property in a certain newspaper that was out of the area, the licensee complied because he**

- A) had never advertised in that newspaper anyway.
- B) must obey the lawful instructions of his principal.
- C) was not intending to advertise the property at all.
- D) is allowed to advertise only in local newspapers.

**12. It is the duty of a licensee to disclose to the principal every material step taken in the transaction of the principal's business. This is because the**

- A) commission can be adjusted up or down according to the licensee's efforts.
- B) agent has fiduciary obligations to the principal.
- C) terms of the listing contract require the licensee to do so.
- D) terms of the purchase contract require the licensee to do so.

**13. As an agent for the seller, a real estate licensee can**

- A) guarantee a prospective buyer that the seller will accept an offer at the listed price and terms.
- B) solicit an offer to purchase the property from a prospective buyer.
- C) advise a prospective buyer as to the best manner of taking title to the property.
- D) change the terms of the listing contract on behalf of the seller.

**14. A licensee is permitted to represent both the seller and the buyer in the same transaction when**

- A) the principals are not aware of such action.
- B) the licensee is a subagent rather than the agent of the seller.
- C) commissions are collected from both parties.
- D) both parties have been informed and agree to the dual representation.

**15. In designated agency, all of the following apply EXCEPT the**

- A) licensee could be a dual agent.
- B) same licensee may represent both the buyer and the seller at the same time.
- C) licensee can choose an agent in the office to represent the seller.
- D) licensee may appoint an agent to negotiate for the buyer.

**16. Which of the following would be considered dual agency?**

- A) A licensee's acting for both the buyer and the seller in the same transaction
- B) Two brokerage companies' cooperating with each other
- C) A licensee's representing more than one principal
- D) A licensee's listing and then selling the same property

**17. Which of the following would be considered lawful practice in real estate brokerage?**

- A) Deceitful or dishonest practices
- B) Exaggerated statements about the property
- C) Omitted statements of material fact
- D) Misstatements about the property

**18. Upon discovering a latent defect in a property, the licensee should discuss the problem with the seller and then**

- A) tell him or her that the defect must be repaired.
- B) arrange for the repairs himself or herself.
- C) inform any prospective buyers of the defect.
- D) contact the city building inspector about the defect.

**19. A licensee is selling a home to a buyer and told her that the foundation was “solid as a rock” when he knew for a fact that it was slowly sinking into the landfill on which it was built. Now that the sale is completed, which of the following is *LEAST* likely to happen to the licensee?**

- A) Revocation of his license for failure to disclose a material fact
- B) Successful defense against all charges based on loyalty to his client-seller
- C) Being charged with intentional misrepresentation
- D) Suit to recover money damages experienced by the buyer due to basement leakage

**20. All of the following are required of a broker when seeking to collect a commission for brokering the sale of a property *EXCEPT***

- A) having a valid real estate broker's license.
- B) having been the procuring cause in the transaction or having an exclusive-right-to-sell agreement.
- C) having had a contract of employment—an agency representation agreement.
- D) complying with a set commission rate set by a trade organization.

**21. A landowner subdivides her acreage and offers the lots for sale. A licensee tells her that he can sell the lots. After the licensee sells some of the lots, the landowner refuses to pay him a commission. The broker can**

- A) report the landowner to the real estate licensing authorities.
- B) file a lien against the landowner's remaining lots.
- C) sue the landowner for breach of contract.
- D) do nothing.

**22. "Fee-for-service" means**

- A) offering real estate services in a piecemeal fashion.
- B) allowing non-licensees to conduct real estate transactions.
- C) working only with for-sale-by-owners.
- D) providing consumers all the same services for a discounted price.

**23. Each of two brokerage companies claimed full commission for the sale of a property that was listed by both of the firms under open listing agreements. The broker who is entitled to the commission is the one who**

- A) listed the property.
- B) advertised the property.
- C) obtained the first offer.
- D) was the procuring cause of the sale.

**24. The National Do Not Call Registry provides that**

- A) licensees may never contact consumers without written authorization.
- B) consumers with whom a licensee has had a business relationship can be contacted for up to 12 months after the purchase.
- C) licensees may not contact a previous customer if included in the registry.
- D) consumers who have made an inquiry to a licensee may be contacted up to 3 months later.

**25. A real estate licensee, classified by the IRS as an independent contractor, receives**

- A) a monthly salary or hourly wage.
- B) company-provided health insurance.
- C) a company-provided automobile.
- D) negotiated commissions on transactions.

**26. A real estate licensee was responsible for a chain of events that resulted in the sale of one of his client's properties. This is referred to as**

- A) pro forma.
- B) procuring cause.
- C) private offering.
- D) proffered offer.

**27. A licensee was accused of violating antitrust laws. Of the following, she was MOST likely accused of**

- A) not having an equal housing opportunity sign in her office window.
- B) undisclosed dual agencies.
- C) price-fixing.
- D) dealing in unlicensed exchange services.

**28. All of the following are prohibited under the antitrust laws *EXCEPT***

- A) competing property management companies agreeing to standardized management fees.
- B) competing brokers allocating markets based on the value of homes.
- C) real estate companies agreeing not to cooperate with a broker because of the fees that broker charges.
- D) a broker setting a company commission schedule.

**29. A licensee finally concluded some extremely difficult negotiations that resulted in the sale of a listed parcel of land. For all of her extra efforts, she can legally receive a performance bonus from**

- A) the seller.
- B) the buyer.
- C) no one.
- D) her broker.

**30. In a typical agency relationship between broker and client, the broker's commission is determined by**

- A) state law.
- B) the local real estate board.
- C) mutual agreement.
- D) minimums based on the property type.

## Answers – TOPIC 2b - REAL ESTATE AGENCY (2b)

1. A
2. A
3. D
4. B
5. C
6. D
7. A
8. C
9. A
10. D
11. B
12. B
13. B
14. D
15. B
16. A
17. B
18. C
19. B
20. D
21. D
22. A
23. D
24. D
25. D
26. B
27. C
28. D
29. D
30. C

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