



Presents

Managing Risk in the Real Estate Business



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Conducted by

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Agency

Notes

Background	
The Code of Ethics	
Duties pursuant to the Tennessee Real Estate Broker License Act	
All Parties and Clients	
Buyer Representation	
Disclosed Dual Agency	
Designated Agency	
Customer vs. Client	
Company Policy	

Case Study

- Agents Sarah and Susan are sales associates for Dynamite Realty
- The office policy is to practice designated agency
- Buyer Client Bert is working with Agent Sarah
- Buyer Bert has signed an Exclusive Buyer Representation Agreement (Designated Agency)
- Buyer Client Bert is interested in making an offer on 140 Lantern Lane
- Agent Peter of Extra Mile Realty is the listing agent of 140 Lantern Lane
- Sarah calls Peter to inquire if there are any offers on the property
- Agent Peter replies that his seller has not authorized him to disclose the existence of offers
- Agent Peter also says he will be happy to present any offer Sarah has to the seller
- Buyer Client Bob is working with Agent Susan of Dynamite Realty
- Buyer Client Bob has also executed an Exclusive Buyer Representation Agreement
- Buyer Client Bob is interested in making an offer on 140 Lantern Lane
- Susan also calls Peter to inquire if there are any other offers on the property
- Agent Peter tells Susan the same thing he told Sarah. The seller has not authorized him to disclose the existence of offers and he would be happy to present any offer Susan has
- Both Buyer Clients Bert and Bob make offers for 140 Lantern Lane
- They are both surprised to receive a counter offer from the seller saying there are several offers on the property
- The seller has authorized Peter to tell both agents to have their clients submit their highest and best offer by 5 pm on Friday.
- Agent Peter also informs Sarah and Susan that both competing offers are from Dynamite Realty

1. Does Peter have an obligation to tell the agents about the existence of other offers on the property?
2. Does the Code of Ethics address the issue of disclosing the existence of offers?
3. Once Sarah and Susan know they have competing buyer clients, should they inform Buyer Bert and Bob?
4. Do Sarah and Susan have any obligation to share information about their buyer's offers with both buyers?
5. Do Sarah and Susan have the right to be present when their buyer client's offer is presented to the seller by Peter?
6. If there was a counter offer to either buyer, would Peter have the right to be present when his client's counter offer was presented to the buyer client?
7. What would be the best way to prepare the buyers for the possibility that they could be competing against another buyer client for the same property

Let's talk about:

Some guidance from the Code of Ethics_____

Cooperation between REALTORS® _____

Multiple Offer Myths_____

"Coming Soon" _____

Surveillance Cameras_____

NOTES

Property Disclosure

Benefits of Seller Disclosure _____

Tennessee Residential Property Disclosure Act _____

Tennessee Residential Property Condition Disclaimer Statement _____

Tennessee Residential Property Condition Disclosure _____

Stigmatized Property _____

CASE STUDY# 1

Jan and John have been clients of Betty's for many years. They called and said they were ready to sell and move into something larger. Betty met with Jan and John that evening and commented on the new wood floors and asked when they put them in. John told her that a lot of repairs were done to the house after a pipe broke while they were out of town and flooded the house.

1. Does Betty have to reveal this to potential buyers?
2. Since everything was fixed, is it necessary to get documentation from the sellers about the damage and repairs?
3. If John insists the flooding be kept confidential, what should Betty do?
4. Does the Code of Ethics address confidentiality of latent defects?

CASE STUDY #2

Listing Agent Penny listed a home that was completely rebuilt from the studs out after a fire. The current owner told Penny that he had learned about the fire from a neighbor after he had purchased the property. The previous owner didn't disclose this fact to him.

1. Does Penny have to disclose this to potential buyers?
2. Should the current owner include information about this on the Residential Property Condition Disclosure form?
3. Is this considered an adverse material fact?
4. Could this be one of those "when in doubt, disclose" issues?

NOTES

Lead Based Paint Regulation

Sale Transaction Requirements _____
Lease Transaction Requirements _____
Penalties for non-compliance _____

Lead Paint Compliance Dilemmas

What would you do if?

1. There are a number of offers on a property and you ask the listing agent for the Lead Paint disclosure form signed by the seller. The listing agent says they do not have one. You don't want to hold up your buyer client's offer on this property waiting for the form. The listing agent tells you to go ahead and have the buyer fill in their part at the bottom and submit it with the offer. If the seller accepts, the seller will fill in the top part.
2. You are selling a vacant lot. The house that was previously on the property was built before 1978 but demolished. Does this property fall under the disclosure requirements of the Federal Lead Paint Disclosure Law?
3. You list a property that was built after 1978 but the seller has put in an antique wood fireplace mantel. Does this property require the seller to complete the lead paint disclosure form?

Antitrust

Relations with Customers and Clients _____
Relations with Competitors _____
Office policies _____
Antitrust Compliance Policy _____

Fair Housing Policies and Procedures

Office Procedures _____
Training program _____
National Association of REALTORS® _____
resources _____
Record keeping _____
Rentals and tenant selection criteria _____

Diane K. Disbrow
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Diane Disbrow has been active in real estate for 37 years, and holds designations as an Accredited Buyer Representative (ABR), Certified Real Estate Brokerage Manager (CRB), Certified Residential Specialist (CRS), Graduate REALTORS® Institute (GRI) and Resort and Second Home Property Specialist (RSPS) Seller Representative Specialist (SRS), Senior Real Estate Specialist (SRES), e-Pro®, Real Estate Negotiation Expert (RENE) and Pricing Strategy Advisor (PSA)

Diane and her husband, Harry, are former owners of BayShore Agency in Southern Ocean County, New Jersey and most recently became part of Coldwell Banker Riviera Realty. The couple has co-authored two books that will help real estate buyers and sellers. Diane also is the owner and director of Shore Real Estate Academy.

Diane has served served as President of the Ocean County Board of REALTORS®, which named her 1988 “REALTOR-ASSOCIATE®-of-the-Year” and 2001 “REALTOR®-of-the-Year”. Active at all levels of the REALTOR® organization, she has either served as chair or been a member of a variety of state and local association committees, including Grievance, Professional Standards, Risk Management/License Law, Presidential Advisory Group on Agency, and the Real Estate Commission’s Agency Task Force. At the National level, she has chaired and served as a member of numerous committees and forums, including the Professional Conduct Working Group, Professional Standards Forum, Interpretations and Procedures Subcommittee, Professional Standards Committee, Risk Management Committee and the Board of Directors. She was the chair of the Amicus Brief Advisory Board in 2013, chair of the Expedited Ethics Enforcement Workshop in 2014 and is served for a second time, in a leadership capacity of the Professional Standards Committee as the 2015 Chair and 2016 Chair of the Professional Standards Interpretations and Procedures Advisory Board. Diane was the 2017 Law and Policy Liaison.

Diane has presented numerous educational programs for the NATIONAL ASSOCIATION OF REALTORS® and for various state and local associations throughout the country.

In March 2009 she was honored by the Girl Scouts of the Jersey Shore as a “Woman of Achievement.” In 2010, she received the “Encore Award” for her hard work and contributions to non-profit organizations. She is the 2012 second place recipient of the Good Neighbor Award presented by the New Jersey Association of REALTORS® for her work with the Atlantic City Rescue Mission. Diane was honored to be the 2013 recipient of the Ocean County Board of REALTORS® “Wall of Fame”.

Diane, her husband of 32 years, her two daughters, Emily (22) and Rachel (19), and one very spoiled dog reside in Tuckerton, New Jersey.