



# TRAINING TIP OF THE WEEK

## AGENCY BASICS

All licensee's who represent a client in a Residential or Commercial real estate sale, or property Management to Lease transaction are required to have a written agency agreement prior to representing the client as defined in the following Administrative Rules and Statute.

R162-2f-401a (2) for the purpose of defining the scope of the individual's agency execute a written agency agreement between the individual and the individual's principal, including:

- a) seller(s) the individual represents;
- b) buyer(s) the individual represent;
- c) buyer(s) and seller(s) the individual represents as a limited agent in the same transaction...
- d) The owner of a property for which the individual will provide property management services; and
- e) A tenant whom the individual represents

R162-2f-401a (6) Prior to the execution of a binding purchase or lease agreement, disclose in writing to clients, agents for other parties, and unrepresented parties:

- a) the licensee's agency relationship(s).

61-2f-308 (1) (a) "Brokerage agreement" means a written agreement between a client and a principal broker;

- (i) to list for sale, lease or exchange, real estate, and option on real estate, or an improvement on real estate or for representation in the purchase, lease, or exchange of real estate, an option on real estate or an improvement on real estate; and
- (ii) that give the principal broker the expectation of receiving valuable consideration in exchange for the principal broker's services.

The Division enforces these agency creation and disclosure requirement because clients clearly have a legal and ethical right to know who is representing them, and who is not representing them in a real estate matter, and what they can expect the licensee to do on their behalf in the transaction. This is a reminder to Principal Brokers and Branch Brokers that they have a supervisory duty to review transaction agency documents and educate their affiliated licensee and unlicensed staff that Witten agency agreements are required in order to represent clients.

### RECENT DISCIPLINARY ACTION FOR AGENCY VIOLATIONS...

Disciplinary action has been taken against Agent A who managed a rental property in Utah for an out of state owner without a written agency agreement. Agent A managed the property through an unregistered entity owned by them self and not through the brokerage firm with which actions are in violation of Utah law and administrative rules. **Agent A will pay a civil penalty of \$2,500 and complete three hours of continuing education in addition to the required education.**

Disciplinary action has also been taken against Agent B, who admitted that without notice to or authorization from his buyer, he electronically signed buyer's name to an agency disclosure agreement and to a buyer due diligence checklist. Agent B's actions are in violation of Utah law and administrative rules.

**Agent B's license is suspended for 60 days and will then be placed on probation until subsequent renewal. In addition, Agent B will pay a civil penalty of \$15,000.**

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