



TRAINING TIP OF THE WEEK

DISCLOSURE DUTIES OF THE AGENT

Fiduciary duties are the highest duties known to the law. Classic examples of fiduciaries are trustees, executors, and guardians. As a fiduciary, a real estate broker will be held under the law to owe certain specific duties to his principal, in addition to any duties or obligations set forth in a listing agreement or other contract of employment. One of these duties include **DISCLOSURE**.

An agent is obligated to disclose to his principal all relevant and material information that the agent knows and that pertains to the scope of the agency. The duty of disclosure obligates a real estate broker representing a seller to reveal to the seller:

- All offers to purchase the seller's property.
- The identity of all potential purchasers.
- Any facts affecting the value of the property.
- Information concerning the ability or willingness of the buyer to complete the sale or to offer a higher price.
- The broker's relationship to, or interest in, a prospective buyer.
- A buyer's intention to subdivide or resell the property for a profit.
- Any other information that might affect the seller's ability to obtain the highest price and best terms in the sale of his property.

A real estate broker representing a buyer is obligated to reveal to the buyer:

- The willingness of the seller to accept a lower price.
- Any facts relating to the urgency of the seller's need to dispose of the property.
- The broker's relationship to, or interest in, the seller of the property for sale.
- Any facts affecting the value of the property.
- The length of time the property has been on the market and any other offers or counteroffers that have been made relating to the property.
- Any other information that would affect the buyer's ability to obtain the property at the lowest price and on the most favorable terms.

CAVEAT: An agent's duty of disclosure to his principal must not be confused with a real estate broker's duty to disclose to non-principals any known material facts concerning the value of the property. This duty to disclose known material facts is based upon a real estate broker's duty to treat all persons honestly and fairly. This duty of honesty and fairness does not depend on the existence of an agency relationship.

RECENT DISCIPLINARY ACTION: sales agent, Pleasant View, Utah. In a stipulated order dated November 21, 2020, agent admitted that she knew of a boundary dispute on a property for which she was the listing agent but she did not produce any evidence of having disclosed the boundary dispute to the buyers' agent. Agent's actions were a breach of her fiduciary duties to her client and were in violation of Utah administrative rules. Agent agreed to pay a civil penalty of \$6,000 and to complete three hours of continuing education on the topic of Utah law in addition to the continuing education required for her next license renewal.

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