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**Developing Professional Conduct and Ethical Practices**

**Program Offered by the Nebraska Real Estate Commission**

**Program Presented by**:

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Nebraska Real Estate Commission

www.nrec.nebraska.gov

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https://www.ada.gov/ada\_title\_I.htm

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Nebraska Real Estate Commission Disclosure of Brokerage Relationships in Real Estate Transactions for Buyers and Sellers

Nebraska Statutes and Regulations - Article 24 - Agency Relationships at http://www.nrec.ne.gov/legal

**Objectives**

As a result of attending this program, students will be able to:

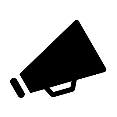
* Outline disruptions as they relate to a real estate career as identified in the Danger Report by Stephan Swanepoel, 2015.
* Discuss the significance of research studies, such as the Aspen Declaration, on ethical reasoning skills of the business professional.
* Identify how real estate professionals are perceived in terms of honesty and integrity.
* Define and review the difference between values, principles, and ethics as they relate to the real estate profession and identify values that are most important to them as they build their real estate careers.
* Evaluate various types of behaviors when faced with ethical dilemmas.
* Given a case scenario, identify which series of events in a transaction resulted in the transgression and provide adequate resolution to the problem.
* Recognize that changing population trends increase the concern for providing equal professional service to all.
* Identify major fair housing violations and how they are addressed in Fair Housing laws.
* Recognize illegal fair housing activities and fine-tune enforcement choices.
* Describe how to answer potentially illegal questions without damaging customer/client relationships.
* Define and apply the basic terminology of agency.
* Summarize and demonstrate understanding of the State Laws and Administrative Rules related to real estate.
* List agency obligations and fiduciary duties to the various parties in a real estate transaction.
* Describe the Complaint process used by the Real Estate Commission.
* Define the legal theories of Liability; Intentional Misrepresentation, Unintentional Misrepresentation, Intentional Concealment, Unintentional Concealment and Negligence.
* Explain the importance of proper disclosure to the consumer and list the various remedies for misrepresentation.
* Outline the types of complaints received at the Nebraska Real Estate Commission.
* Explain what professional dress is for a real estate professional.
* Employ a method of effective communication that is appreciated by the public and other agents throughout the real estate transaction.
* Improve professionalism as it relates to interpersonal interactions, dress and general etiquette during a real estate transaction.

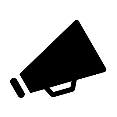
**Rational Choices and Applied Ethics – Defined:**

**Ethics** -Ethics is a body of principles or standards of human conduct that governs behavior.

**Values** - How we ought to behave and are feeling oriented. Can change upon situations.

**Principles** - Truths or propositions so clear that they cannot be proved nor contradicted.

What has your experience been when facing an ethical conflict?

 How do you feel a real estate professional is perceived by the public? If it isn’t positive,

how would you change that?”

**Set the Stage – The Wakeup Call – A Reality Check**

* Violations of ethical conduct and professionalism occur on a routine basis. We begin to wonder what the new normal is when it comes to conducting business.
* A large number of Licensees feel that no one cares if someone does something that might be considered unethical. Complaints are not filed and even if they are reported, it seems there is little or no consequence.
* Enforcement of ethical standards and professionalism varies from company to company, making it hard to determine how to proceed.

**Science Fiction or Is It?**

We live in a world where science fiction has become a reality. Rabbits, sheep and cats have been cloned since 2004. Costs can soar up to $50,000 per animal. What if it were possible to clone a human being and use them as organ donors – which is the premise of the movie, “The Island” with Ewan McGregor and Scarlett Johannsen. Technically, cells would have to be harvested and saved at birth to ensure viable cells.

Cost aside, would you choose to have a clone made of a person you loved or of yourself? Why or why not?

**Gallup Poll 2019 – Moral Values – May 2019**

*How would you rate the overall state of moral values in this country today -- as excellent, good, only fair, or poor?*

Excellent 2%

Good 15%

Only Fair 36%

Poor 47%

No Opinion 1%

**Gallup Poll 2019 – Honesty/Ethics in Professions – Dec 2019**

1. Nurses
2. Engineers
3. Medical Doctors
4. Pharmacists
5. Police Officers
6. College Teachers
7. Psychiatrists
8. Chiropractors
9. Clergy
10. Journalists
11. Bankers
12. Labor Union Leaders
13. Lawyers
14. Business Executives
15. State Governors
16. Stockbrokers
17. Advertising Practitioners
18. Insurance People
19. Members of Congress
20. Car Salespeople

**Gallup Poll 2019 – Moral Issues Ranking – May 2019**

**Morally Morally Depends on**

**Acceptable Wrong Situation**

Abortion 42% 50% 2%

The death penalty 60% 35% 6%

Doctor assisted suicide 52% 44% 2%

Suicide 17% 79% 2%

Medical testing animals 51% 44% 3%

Divorce 77% 20% 2%

Cloning animals 31% 66% 1%

Cloning humans 12% 85% 0%

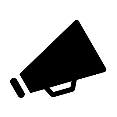
Baby outside of marriage 64% 34% 1%

**“The Danger Report”, Stephan Swanepoel, 2015**

* Not in Unison with Fast Paced World
  + The general public is becoming increasing more advanced when it comes to searching for properties without the aid of a real estate professional. Ways to communicate have also shifted to social media and other resources.
* Too Many Uninformed Decisions Are Taken
  + Licensees work quickly to get their business up and running, fearful of living without an income for an extended period of time. As a result, decisions on expenditures and putting together business plans and systems may not be based on correct information and assumptions.
* Lowest Common Denominator Impediment
  + Unfortunately, some Licensees seem to be developing a lot of business, but their professional standards, appearance, services are subpar. This generates the question as to why an Agent spend the effort and work harder to create a highly ethical business.
* Reluctance of Leaders to Step Up
  + Volunteering within the industry has decreased over the years. The pressure to earn a living while keeping the household up and running creates limited number of hours in which to serve the community. In addition, informal leaders may not push to address an ethical violation because of the backlash it might cause personally and possibly to their business.
* Changing of the Old Guard
  + When old ways of doing business are deemed outdated and irrelevant, new processes surface. Unfortunately, the changes instituted may not take into account the effectiveness of tried and true systems. Older Licensees’ rebel against technology and new ways of doing business, which in the long run, may ultimately harm their business. The trick is finding balance.
* Off-MLS Listings Escalate
  + The public knows there are multiple online services showing properties for sale, including effective For-Sale-By-Owner sites. For Sellers, the value proposition of hiring a real estate professional becomes a valid factor when deciding whether to turn over the marketing and processing of a sale of their property in change for a commission that “eats” into their equity.

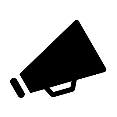
**Why Study Ethics and Professionalism?**

* Improves society and sets expected behaviors.
* Defines moral prerogatives to rely upon during times of upheaval or stress.
* Cultivates excellent working relationships and assists in productivity.
* Creates a power marketing brand for the public that builds trust and long-term relationships.

How does the public and Licensees value integrity and honesty in the workplace? What if you can get a “deal” but work with someone whose ethics and professionalism are questionable?

**What Designated Brokers Have Seen in the Marketplace**

* Antitrust and Fair housing violations which includes negative language about their peers and clients.
* Licensees ignoring client relationships and working actively to step into another’s transaction which interferes with representation.
* Overstepping boundaries by conducting multiple offer presentations in such a way that the client may not see other offers in a fair light.
* Conflicts of interest when a Dual Variable rate is in play. A Dual variable rate is where the Listing Agent negotiates a reduced commission from what is on the MLS if they bring in their own Buyer for the Listing. This may be difficult to navigate when Limited Dual agency is being practiced for the transaction.
* Improper shopping of offers without client permission or ignoring state laws which might be in place regarding shopping of offers and revealing confidential information.
* Not disclosing agency representation properly and in a timely manner.
* Failing to get permission in writing to be a Dual Agent prior to showing any company listings and when in Limited Dual agency, not conducting themselves properly.
* Revealing bottom line numbers or other confidential information such as why the Seller is moving to a Buyer’s Agent without Seller permission.
* Confusion as to how to answer questions from a Buyer’s Agent when asked about previous offers that may be in place or have fallen through.
* Requiring or strongly advocating for a particular to use third party service provider (title company, home warranty company, mortgage finance, home inspection, etc. ) based on the preference of the agent or broker rather than the client.

What have you witnessed in your marketplace that “doesn’t seem right”…

**Agency and Fiduciary Duties**

**Agency**

* Agency is a relationship in which a real estate broker acts for or represents another by the other person’s express authority in a transaction.

**Limited Agent**

* A limited agent represents and advises a client, but does not have the authority to make decisions or enter into contracts on behalf of the client, most residential sales agents are acting as limited agents unless a common law agency agreement allowing the agent to act on behalf of the client is expressly entered into

**Client**

* A party to a transaction who has an agency agreement with a broker for brokerage services.

**Customer**

* Consumer who is not being represented by an agent but for whom the agent may perform ministerial acts.

**Seller’s Agent**

* Begins with a signed Listing Agreement.
* Agent represents the Sellers and their interests in a transaction.

**Buyer’s Agent**

* May have a written Buyer Representation Agreement, but it is not required in order to establish a Buyer agency relationship.
* Agent represents the Buyers and their interests in a transaction.

**Limited Dual Agent**

* Represents both the Sellers and Buyers in a transaction.
* Requires written permission from the Sellers and Buyers.
* Requires dedication to ensure the Agent does nothing to compromise the negotiation position of either party.

**Agency Disclosure**

Nebraska Real Estate Commission Disclosure of Brokerage Relationships in Real Estate Transactions for Buyers and Sellers

* These disclosures must be made at the earliest practicable opportunity during or following the first substantial contact with a Buyer, Tenant, Seller, or Landlord who does not have a written agreement for brokerage services with another licensee.

**Written or Verbal Permission**

* Listing Agent - written permission obtained in the Listing Agreement.
* Buyer’s Agent – a written Buyer’s Representation Agreement may be obtained to document the relationship but is not mandatory in Nebraska.
  + An Agent’s actions and procurement of information that could harm the customer’s negotiation position will automatically make that Agent a Buyer’s Agent.
* Dual Agent – Listing Agent
  + Written permission is obtained upon signing of the Listing Agreement.
  + This permission is property specific, so if multiple properties are listed, individual Dual Agency permissions need to be obtained.
* Dual Agent – Buyer’s Agent
  + Written permission to act as a Dual Agent (one who represents both the Seller and Buyer in a transaction) should be signed **prior** to showing in-house or personal listings.
  + This permission is general and applies to any all properties shown to that client.
  + The Agent’s behavior must change when showing as a Dual Agent. This means the Buyer client should be advised when they are entering a listing and that the Agent will be acting as a Dual Agent.
  + If written permission to act as a Dual Agent is not procured prior to showing properties, the Buyer may challenge the relationship because of lack of disclosure.

**Agency Relationships - Rights, Duties and Obligations**

**Disclosure**

* Reveal all favorable and unfavorable information and circumstances critical to the client.
* What the Agent knows, must be relayed to the client.

**Obedience**

* Obey lawful instructions given by the client. Operate as the client instructs, not as the Agent feels they should act.

**Loyalty**

* The client’s interests are primary which means honoring their lawful wishes.
  + *Area of Concern*: Having an ownership or affiliating with transaction service providers and then actively steering clients to that company or away from companies the Agent may not like.

**Accounting**

* Properly account for any funds in the transaction following lawful guidelines for distribution if a transaction fails.

**Reasonable Care and Diligence**

* Agent provided their best efforts to further the goals of the client.

**Confidentiality**

* Hold all client information that could be detrimental to your client’s interest, or that the client requests not be released, confidential.

**Agency Ethics and Professionalism**

* Agency representation is a great responsibility which requires due diligence to make sure the client’s interests are respected and protected.
* Enlightened self-interest, actions to keep a deal going or maximize Agent’s or company’s profits may pay off in the short run, but satisfied clients and a good reputation will help grow the business long term.

**Be the Client Advocate – Act in the Client’s Best Interests**

* Take care of the client first before ever worrying about the commission
* Agent never inserts their personal interests into the transaction. By conducting thorough interviews with the client, the Agent can then become an advocate that that client.
* Dual Agency – Do not demonstrate favoritism for either client or reveal confidential information
* Conflicts of Interest - Agents are often tempted to make sure the deal doesn’t fall through, or that the deal utilizes the Buyer or the related service provider that benefits the Agent. This goes to the core of agency.
  + When the client’s interests and the Agent’s interests clash, client’s interests comes first in situations such as:
    - In accepting the right offer for the Seller (your Buyer vs. another Agent’s Buyer).
    - Picking the closing or home inspection company.
    - Glossing over issues the client may have legitimate concerns about.
    - Acting as an expert or expressing knowledge or opinion to keep the deal going when the Agent doesn’t have the actual knowledge or expertise for the opinion.

**Maintain Confidentiality**

* Agent may not reveal any confidential information about their client unless they have written permission.
* Specific confidential information includes but is not limited to, the seller or landlord being willing to accept less than the asking price or lease rate, that the buyer is willing to pay a greater price or lease rate, a client’s motivating factors, that the client will agree to finance terms other than those being offered, or anything else the client has specifically requested to be kept confidential
* Critical when revealing information that might compromise the client’s negotiation position:
  + Example - Great care must be taken when writing advertisements that might indicate “desperation” on behalf of their client such as “Seller needs to sell now!” or say to another Agent “This is the only property the Buyers like!”.

**Honesty**

* Adverse material facts must be disclosed.
* On other issues, truthful responses should be given as it is lawful to do so and is not prohibited by the client.

**Be a Trusted Advisor**

* For Seller Clients
  + Explain your role, duties and obligations as seller’s agent
  + Explain the steps of the selling process, listings, showings, advertising, inspections, contracts, closings
  + Prepare updated and accurate comparative market analysis (CMA) on the property for establishing realistic pricing.
  + Never state any other price for the property other than the one it is listed at.
  + Negotiate for the most earnest money possible. The Agent is negotiating liquidated damages up front in case of breach.
* For Buyer Clients
  + Explain your role, duties and obligations as a buyer’s agent
  + Explain the steps of the buying process, showings, inspections, offers, contracts, closings
  + Provide comparable property information to assist the Buyers in making an offer that will work within current market conditions.
  + As a result of this research, the Buyer’s Agent can then competently counsel the buyer on negotiating strategies regarding terms and price of the contract.
  + Work within the Buyer’s financial capability and goals to establish an offer price.
  + Recommend an appraisal, even if the Buyer is paying cash.
  + Negotiate for the least earnest money possible. The Agent is negotiating liquidated damages up front in case of breach and should try to keep it to a minimum.
* As a Dual Agent
  + Agent may not provide any assistance in pricing to a Buyer client unless:
    - Buyer client requests comparable properties be provided before writing the offer. The Agent may provide those comparables but may not interpret them.
    - Buyer clients may request a copy of the original CMA – Seller permission is required before providing that information and Agent may not interpret it for the Buyer.

**Positive Attitude**

* Seller’s Agent
  + Agents should never talk negatively about the property that Buyers can readily see for themselves.
  + Knows if the issues of concern are fixable or negotiable through the purchase contract.
  + Makes sure all material adverse facts are listed on the Property Condition Disclosure Report.
* Buyer’s Agent
  + In today’s age of technology, it is very likely that the Seller may either be actively recording video of the showing, or capture comments made at the front door with doorbell video cameras.
  + Negative comments regarding the property should be discussed privately and off property.
  + Agents may provide a commentary about issues relating to the property but keep them framed in a way that the Buyers can make their decisions as to whether it is something that will cause them to “move on”.
* Dual Agent
  + No commentary or opinions are permitted.
  + Show the property and answer questions that relate to the physical aspects of the property only.
  + Defer to the Property Condition Disclosure Report.

**Defer Liability**

* Remain well informed about community developments but refer the questioner to the expert resource whenever possible.
* Seller’s Agent
  + Educate the Sellers on the Fair Housing laws and teach them to concentrate on the financial capabilities of the Buyers and not those areas that could lead to a charge of discrimination.
  + Obtain written permission to disclose confidential information.
  + Obtain signatures on a “hold harmless” clause if the Seller wishes to write a very personal letter to a future Buyer which may disclose information that violates Fair Housing laws.
  + Never discuss another real estate company or agent, their marketing strategies or pricing. Stay focused on specifically what the company can provide.
* Buyer’s Agent
  + Educate the Buyers on Fair Housing laws and how it restricts the answers the Agent can provide on certain questions.
  + Obtain written permission to disclose confidential information.
  + Obtain signatures on a “hold harmless” clause if the Buyer insists on providing a “love letter” to the Seller as a marketing technique stressing that the information disclosed may violate Fair Housing laws and create a reason for a Seller to “pass” on the offer.
  + Never discuss another real estate company or agent, their marketing strategies or competency. Concentrate on what the company provides.
* Dual Agent
  + Remember at all times that both parties are represented, and law requires the Agent to restrain from interfering in the transaction or steering a client in a way that damages the other party.

**Be a Resource**

* Provide relevant information to clients as requested within the parameters of the law.
* Incorporate the proper disclaimer language when making referrals for services such as:
  + I/we have selected an above indicated Home Inspection Service to

conduct an inspection on the property listed below. It is agreed and understood that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. and/or it’s Agent will work closely with our selected company, but \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ does not in any way guarantee the level of service, performance, or outcome provided by any of the above inspection companies. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. shall receive no fee or commission from the selected home inspection service.

**Remember Representation**

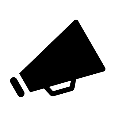
* Seller’s Agent
  + Open Houses – the Listing Agent holds an open house to secure a potential Buyer for that property.
    - Agents should not talk about other options in properties to Buyers who come into an Open House until they know the Buyer has ruled out the Listing as an option.
    - Essentially, it violates Seller representation to converse with a potential Buyer and encourage them to purchase elsewhere.
  + Negotiating an offer requires that the Seller’s interests remain at the forefront. Agent can never offer indications that the Seller will agree to anything other than what they have provided in writing.
    - Speak to your Designated Broker regarding how texting documentation should be handled
    - Terms and conditions negotiated should be as favorable for the Seller as possible.
  + Information provided to potential Buyers need to be cleared with the Sellers before providing it.
* Buyer’s Agent
  + Prepare Buyers to have the Agent business card handy in case they are visiting open houses without the Agent.
  + Consider writing up a Buyer Representation Agreement to outline specifically what the Agent will do for the Buyer and limit liability for the extent of the search parameters.
  + Disclose material defects.
  + Keep Buyer’s interests always primary when responding to questions on an offer submitted by the Buyer. Never offer terms or conditions that have not been put in writing on the offer.
  + Information provided to Sellers should be cleared with the Buyers before providing it.
* Dual Agent
  + The Agent represents both parties and can do nothing that would compromise the negotiation position of either party.
  + Respond to questions carefully and obtain written permission as needed.
  + Point out adverse material defects.
  + The Buyers and Sellers determine when and if an offer “dies”.

**Transparency**

* Seller’s Agent
  + All oral offers should be passed on to the Seller to let them decide the next step.
    - The Seller could decide they wish to initiate the offer themselves -- outlining their own terms -- or instruct you to reduce the offer to writing. Either way, the seller makes the decision.
  + Inform the Seller of the appraisal figure, if known.
  + Inform the Seller of relevant facts uncovered about the Buyer, as long as Fair Housing laws are not violated.
  + A Seller’s Agent can never work with an undisclosed buyer.
  + Reveal any incentives, if applicable.
* Buyer’s Agent
  + Oral responses should be passed to Buyer and reduced to writing upon request.
  + Have a relationship established where the Buyer shares the financial progress.
  + Inform the Buyer of relevant facts uncovered about the Seller and/or property, as long as Fair Housing laws are not violated.
  + Encourage the Buyer to do due diligence when gaining information about the property such as zoning, easements, etc.
  + Reveal any incentives, if applicable.

**Educate - Point Out Options and Explain Processes**

* Seller and Buyer Agent
  + Train the client early in the transaction about
    - Marketing process
    - Showing expectations
    - Contracts – offer and acceptance
    - Financing options
    - Inspections
    - Title work
    - Administrative steps to closing
* Dual Agent
  + Once the Agent is in Dual agency, the amount of assistance is dramatically impacted. The responsibility to both parties of the Dual Agent is still to point out options and explain processes.

**Agency Blitz**

1. When asked, should I tell clients what I really think about other Agents, especially if it is negative?
2. In relation to confidentiality, are your abilities to represent a new Buyer client limited with regard to former listings? Are you a Dual Agent when showing those past listings to new Buyer clients?
3. Doing a listing appointment, you learn the Seller needs to sell quickly and may be flexible on pricing. You don’t get the listing. Later you represent a Buyer looking at the property. Are you obligated to keep the Seller’s information confidential?
4. If you are a Dual Agent, what advice on the transaction can you give to the Sellers and/or Buyers?

**Ethical Dilemma**

* A decision-making problem between two possible moral “rights”. Many ethicists assert there’s always a right thing to do based on moral principle. Others believe the right thing to do depends on the situation. Ultimately, it’s up to the individual.

**Where Moral Actions Comes From**

**Competence:** Ability to turn knowledge and feeling into effective moral action.

**Will:** The mobilization of energy to do what we think we should do.

**Habit:** Doing the right thing becomes an unconscious practice.

**Sometimes Truth is Better than Fiction**

**Disparaging Texts**

You work on a team with Agent Joe. Agent Joe is good longtime friends with Mr. and Mrs. Seller and lists their property. Mr. and Mrs. Seller call you today stating that Agent Joe isn’t doing a good job for them. Mr. and Mrs. Seller want to file an ethics complaint against Agent Joe based on text messages Agent Joe sent them regarding other Agents who show their property. One text message stated, “(Showing Agents Name) is a f\*\*\*\* crusty old lady.”

Are there any ethical violations? If yes, what?

How would you handle this situation?

**Unauthorized Video**

You list a beautiful home. Sellers are very particular about which pictures will be available for the MLS. They own an extensive, very expensive art collection, which they do not want to take down, because it helps showcase the property, but do not want public pictures of it anywhere. You do not post this request in the MLS comments section. Buyer’s Agent Sally gets permission to show your Seller’s home to her potential Buyers. While inside the property, Agent Sally takes video and pictures of the inside of the property and then posts these images on her public FaceBook page. You receive an irate call from the Sellers regarding this situation as they learn about Agent Sally after reviewing their audio/visual monitoring system they have.

Are there any ethical or professional violations? If yes, what?

How would you handle this situation? Could anything have been done to make sure this doesn’t occur?

**Coordination Issues**

Mike, a Buyer’s Agent calls Ellie, the Sellers’ Agent and asks to set up a home inspection appointment for Monday 9:00 am. Ellie texts the Sellers, asking if that time would work. She doesn’t hear back from the Sellers. Unknown to Ellie, her phone is not receiving text messages and she can’t get it fixed until Monday. No communication regarding the appointment confirmation happens. Mike assumes all is good and the Home Inspector shows up Monday morning at 9:00 am. The Seller’s 12-year-old daughter is home alone and happens to be taking a shower when the Inspector lets himself into the house after no one responds to his knocks.

Are there any ethical or professional violations? If yes, what?

How would you handle this situation?

**Unwanted**

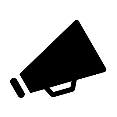
A commercial office property goes under offer and closes with no issues. In a storage room, a few items are left behind. New building owners show up at the Association Executive’s office and drops a black box on the desk, announcing that they don’t want it, turn around and leave. Speechless, the Association Executive discovers it is cremation remains in the box. She immediately calls the funeral home stamped on the box sticker and gets a name of the poor powdered soul who is in the box. The funeral home then announces there are procedures she must follow. The Association Executive calls the Seller who retorts that they no longer want him (the remains) as he was a couple of husbands ago. The Association Executive must now send registered letters to all family members to see if they want hm, wait a set amount of days and then she gets to dispose of him.

Are there any ethical or professional violations? If yes, what?

How would you handle this situation?

**Ethical Conflict in Real Estate**

* Do you interfere with an agency relationship in order to get the closing commission?
* You are asked questions about another local Agent from a potential customer. Your experiences with that Agent have been poor.
* Do you refer Sellers to other cooperative Agents when you know you or your company can’t really help them – such as they can’t afford your commission level or have an expertise you don’t have.

What has been your experience in facing ethical conflicts?

**Aspen Declaration**

In 1992, an eminent and diverse group of educators, youth leaders, and ethicists issued the Aspen Declaration, a document which asserted the primacy of six core ethical values that transcend cultural, religious, and socioeconomic differences:

**Trustworthiness** - Honesty, Loyalty, Integrity, Promise-keeping

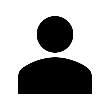
**Respect** - Privacy, Autonomy, Courtesy, Tolerance, Acceptance

**Responsibility** - Accountability, Self-restraint, Pursuit of Excellence

**Fairness and Justice** -Openness, Impartiality, Equality, Due Process, Consistency

**Caring** - Kindness, Compassion, Unselfishness

**Civic Virtue and Citizenship** - Law-abiding, Community Service, Doing One’s Share

**Ethics and Values Important to You…**

*Select the top three values you that dictates how you live your life and select your friendships. Number in order of importance – 1 being most important*

**\_\_\_\_\_ Accountably**

**\_\_\_\_\_ Commitment to excellence**

**\_\_\_\_\_ Concern for others**

**\_\_\_\_\_ Fairness**

\_\_\_\_\_ Family

**\_\_\_\_\_ Honesty**

**\_\_\_\_\_ Integrity**

**\_\_\_\_\_ Law abiding**

**\_\_\_\_\_ Leadership**

**\_\_\_\_\_ Loyalty**

\_\_\_\_\_ Money

**\_\_\_\_\_ Morality**

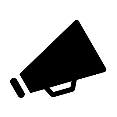
**\_\_\_\_\_ Promise Keeping**

**\_\_\_\_\_ Reputation**

**\_\_\_\_\_ Respect for others**

\_\_\_\_\_ Spirituality, religion

**\_\_\_\_\_ Trustworthiness**

What ethical behavior and professionalism attributes are most appreciated?

**Ethical Conduct in Real Estate**

**Crime Zone**

An Agent shows a Buyer a property which is listed with his company, which means the Agent is a Dual Agent in this transaction. The property happens to be in a neighborhood that is on the verge of becoming derelict. The house itself looks well maintained, but neighboring properties have litter strewn about and show poorly maintained exteriors. A commercial 24-hour gas station is 1 block away. As the Dual Agent shows the house, police sirens fill the air. The Buyer is thrilled that there is a property that meets his limited financial means and is very satisfied with the layout. The Buyer then asks whether there is any crime in the area.

What is the Limited Dual’s Agent responsibility in terms of answering the question?

If the Dual Agent is aware of high crime in the area, are they allowed to disclose that to the potential Buyer without the Seller’s permission?

Is the Dual Agent allowed to “steer” or suggest that the Buyer contact the police department and find their own answers?

What if the Buyer does that and then decides not to write an offer… has the Dual Agent compromised their agency relationship with the Seller?

**The Question of the Child Molester**

An Agent takes a listing on a $300,000 property from very motivated Sellers. After all the paperwork is signed and the Agent is prepared to leave to put it into the MLS, the Sellers state that a sex offender lives next door and they don’t want future Buyers to know.

How should the Listing Agent proceed? What legal and ethical obligations does the real estate Agent have to his clients and future Buyers?

**Are You Obligated To…**

Reggie, the Listing Agent, has a commercial listing that is getting a lot of activity because it is located in a prime spot and is priced very reasonably. Susan, a Buyer’s Agent contacts Reggie after showing the building and tells him that it went very well, but she informs Reggie that the Buyer needs to think about it for a bit. Susan then asks the Listing Agent to contact her if any other Buyers write an offer on the property. Two days later, Reggie calls Susan and tells her that he personally found another Buyer whose offer was accepted by his Seller.

Shouldn’t Reggie have advised Susan that another offer was pending? What legal and ethical obligations do each Agents have to their clients?

**The Referral Fee**

Melinda, Agent with Company A, referred Sellers to Jason, Agent with Company B because Company A does not handle lots. Melinda and Jason orally agreed that a 20% referral fee would be payable to Company A if the property closed while listed with Company B. A month later, Melinda happens to drive by the lot and notices a “Sale Pending” sign on the lot she referred. She mentally begins to calculate her referral fee, feeling everything went very well.

Three weeks later, she receives a check for $100 – the total referral fee paid by Jason from Company B on a lot that sold for $60,000. Outraged, Melinda calls Jason and demands the rest of her referral fee. Jason States that this amount was their standard fee, and the referring agency can “Take it or leave it.”

What went wrong in this situation? How could it have been prevented?

**Multiple Offers – One Not Disclosed**

Ed, a Buyer’s Agent from Company A, submitted an offer to Jessica, the Listing Agent from Company B. This was a multiple offer situation and Ed knew the Seller from church. Ed’s Buyer made a full price cash offer to close in 2 weeks with no inspections or other requirements. 24 hours later, Ed learns that his offer was not accepted. Stunned, he informs the Buyer and proceeds to set up other properties to show. 4 weeks later, Company B’s listing closes, and Ed sees that the closing price was not as good as his offer. Highly curious, Ed calls the Seller to ask why the other offer was accepts. Startled, the Seller said he was never presented an offer from Ed, Company A and wanted to know what was going on?

How should this situation be handled?

**Ethics And Relationships With Colleagues**

One of your firm’s listing clients has expressed dissatisfaction with the handling of their property by your colleague, the Listing Agent Mica. You know for a fact that Mica cuts corners, does not follow through on promises, is lazy and incompetent. The listing will expire soon.

How should you handle this conversation?

**Whose Client Is It**

Jennifer is a top producer who is working floor duty – handling all incoming calls for the next three hours. She is very busy person but takes a call regarding the opportunity to show high end properties in the next week. Jennifer takes the information down and promises to get back to the potential renter. Two days later, Rebecca, a new Licensee, is doing floor duty and receives a call from the same person who says they spoke to someone two days before, but don’t remember her name. They indicated that no one called them back and they really needed to buy a home before the end of the week. Rebecca checks the call log and sees no record, she then asks the Managing Broker if it was okay to proceed, and when she is told “yes”, Rebecca sets up the showings and ends up writing an offer on a $750,000 home.

When Jennifer called the Buyer back five days later, she learns that Rebecca “stole” her client and storms into the Managing Broker’s office demanding she receive the commission for the transaction. Jennifer was so angry she threatens she will leave if this isn’t handled properly.

How do you think this situation should be handled?

What would you do if the Buyer had asked for Jennifer by name and Rebecca had lied about Jennifer being available?

**Rational Model of Ethical Analysis and Decision Making**

D. G. Jones 1982, “Doing Ethics In Business”

1. State the ethical dilemma in plain language
2. Identify relevant facts, ranking them in order of significance.
3. Identify relevant values / principles.
4. List alternative courses of action.
5. Rank your value objectives in preferential order.
6. Rank predictable consequences in terms of harmful or beneficial effects.
7. Make your decision.
8. Adopt a proactive attitude and propose a policy or institutional arrangement for preventing the ethical dilemma from recurring.

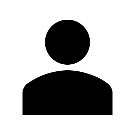
**Rotarian Model – 4-Way Test to Decision Making**

* Is it the Truth?
* Is it Fair to all concerned?
* Will it build goodwill and better friendship?
* Will it be beneficial to all concerned?

**Kew Garden Principles of Ethical Decision Making**

* Need - Is immediate help required?
* Proximity – Are you close enough to the situation to do something about it?
* Capability – Do you have the ability and motivation to help?
* Last Resort - Is there anyone else who can help?

**Fair Housing**

 **Fair Housing Quiz**

1. Testers may approach a housing provider without any intention of procuring housing.

a. true

b. false

2. An owner of a single-family home is exempt from the federal fair housing laws if the

owner does not own or have any interest in more than 3 single family houses at once.

a. true

b. false

3. An “aggrieved party” can file a complaint if they can prove they are a member of a

protected class, they are financially qualified to obtain the property, were rejected by

the defendant, and that the housing opportunity remained open after the rejection.

a. true

b. false

4. Discrimination needs to be intentional before a complaint can be filed.

a. true

b. false

5. The protected classes under Fair Housing Laws are:

a. race, religion, sexual preference, handicap, familial status and national origin

b. color, religion, sex (gender), disability, familial status and national origin

c. race, age, religion, sex (gender), disability, familial status and national origin

d. Race, color, religion, sex (gender), disability, familial status, & national origin.

6. Federal Fair Housing exemption categories include:

a. religious organizations

b. private clubs

c. Ms. murphy’s exemption

d. all of the above

7. The definition of disability includes both physical and mental challenges.

a. true

b. false

8. Disparate treatment is intentional acts of discrimination directed at those protected by

law

a. true

b. false.

9. Steering is when

a. the lender purposefully refuses to offer mortgages to a certain part of town

b. the real estate Broker attempts to induce a person to sell or rent a dwelling by

representations regarding the entry into the neighborhood of members of a

particular protected group.

c. the real estate Agent makes decisions for Buyers or renters about where

they should live

d. the real estate Agent denies that housing is available for inspection, sale or

rental when the practitioner knows it is actually available.

10. Title VII prohibits property owners from refusing to make reasonable modifications to

the dwelling to accommodate a tenant’s disability. This includes:

a. narrowing of a door to limit passage of a wheelchair

b. installation flood lighting at the rear of the property

c. installation of grab bars around bathtubs and toilets

d. complete removal of the environmental controls

11. Disclosing information about a property or neighborhood’s population which is part of

any “protected class” is a discriminatory housing practice prohibited by law.

a. true

b. false

12. One year is allowed to file an alleged discriminatory practice complaint

a. true

b. false

13. Fair Housing regulations prohibit the use of the words “No Children” in an

advertisement

a. true

b. false

14. Which of the following statements is true:

a. real estate advertisements are allowed to state a preference or limitation on

account of race, color, or national origin.

b. real estate advertisements are allowed to contain an explicit preference, limitation or

discrimination on account of religion (i.e., no Jews, Christian home).

c. real estate advertisements can contain explicit exclusions, limitations, or

other indications of discrimination based on disability (i.e., no wheelchairs).

d. real estate advertisements may not state an explicit preference, limitation or

discrimination based on familial status.

**Now That I See You…**

Matt, a Hispanic man, has several telephone conversation and email exchanges with Sarah, a new to the business Licensee in your office when finally, an office visit is set. Before the meeting, Sarah shares how excited she is that Matt will be a new Buyer client for her. You happen to be in the lobby and observe Sarah as she meets Matt for the first time. It is obvious by her facial expression and body language that her attitude towards Matt has changed significantly. Her responses to Matt are curt and border on rude. Later that day, you receive a call from Matt who complains about Sarah’s behavior which made him feel embarrassed and discriminated against.

What are the next steps that you should take?

What actions should you implement to ensure compliance to Fair Housing laws?

 **Do I Have to Rent to…**

Rick is 34 and has Downs Syndrome and has recently been cleared to live on his own. He is very interested in renting an apartment in a complex that your organization manages and has the financial ability to afford the apartment. You accept the application and are getting ready to have him occupy the property. Through a conversation with Rick, you learn that Rick, in a few months, is planning on marrying a 25-year-old young lady who has a severe developmental disability that doesn’t allow her to be on her own for any length of time for safety reasons.

What concerns would you have in leasing this property?

You have accepted the application – do you have the right to withdraw that acceptance because of the capacity of additional occupants that may move into the apartment a year later?

 **The Round File**

Jeff, a Licensee in your office, is working on securing a renter for a six-unit apartment building. He normally doesn’t do this type of work but is doing it for a good friend. Within 2 days of advertising the apartment, Jeff receives a lease application from Randy Regent. Jeff notices that the application was recently released from federal prison for drug distribution and throws the application in the “special” file – the trash. Jeff absolutely doesn’t want a felon to be in his friend’s apartment complex! Two days later, Randy speaks with Jeff and asks if his application has been received. Jeff lies and says, “No”! Randy resends the application via Federal Express. Upon receipt of the application, Jeff tosses it away once again. Jeff rents the unit a day later to a Caucasian couple. As they are moving in, Randy approaches the couple and asks when they had submitted their application to Jeff. They state they had submitted it to Jeff the day before and it was accepted the same day. Randy Regent contacts you to complain of discrimination due to the fact that he is black man.

What are the issues relating to Fair Housing that exist?

What actions should you implement to ensure compliance to Fair Housing laws?

What are your thoughts about the fact that unintentional discrimination may be happening due to background checks?

 **You Would Be More Comfortable…**

Wes, an Asian man, meets with Linda, an Agent in your office, to discuss purchasing a house for his family. When Wes names the neighborhood that he is interested in, the Linda asks Wes if he is sure that his family will feel comfortable there. Linda tells Wes that she has a wonderful listing in another neighborhood where there are more “people like him.” When the Linda takes Wes and his family to see the house, Wes notices that the residents of the neighborhood appear to be mostly Asian. Wes files a complaint with HUD because steering someone to a certain neighborhood because of his race is a form of race discrimination.

How can you ensure you are not steering clients in their home searches?

What actions should you implement to ensure compliance to Fair Housing laws?

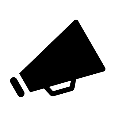
**Complaint Handling**

You are a fellow Agent, friends with 68-year-old Lonny Lyndell, a Viet Nam vet. He has been with your company for seven years. Over the past 12 months, you have heard of two complaints from Asian customers about Lonny’s attitude when working with them. Both claimed Lonny made crude remarks relating to their cultural needs when it came to housing, such as needing to follow Feng Shui rules. You have now received notice that another of Lonny’s clients, Mr. Lee (Asian), has formally filed a complaint with HUD, stating that Lonny is steering them only to Asian neighborhoods and not showing them other properties, they are qualified to see and that you, as his back up, are also included in the complaint.

List the steps you would take to handle this situation.

Identify any liability exposure you may have related to this complaint.

* Advertising Restrictions
  + Adhere to Multiple Listing Service rules – what process is in place to ensure accuracy of data?
  + No preferences or limitations or discrimination because of any of the protected classes under Fair Housing.
  + Brokerage website and individual Broker websites – Who monitors and how are brokerage requirements enforced?
  + Applies to advertisements in all social media – What approval processes is in place?
    - Example: “Great for a growing family” or “Seniors will love this quiet environment”.
    - Fair Housing Logo should be used on all printed materials as well as online.
    - Fair Housing Poster should be posted in the public area of the office.

What are your biggest challenges in minimizing liability regarding Fair Housing?

* Client Interview Process
  + The first in-depth meeting with a potential client presents the first opportunity to practice excellent risk management techniques.
  + The goal of a formal interview process is to provide the customer/client with the laws and rules that dictate Agent’s behavior and level of communication and establish clear understanding of how the real estate search and subsequent purchase will proceed.
  + The order in which topics are introduced should begin with the laws that govern the Agent’s interaction and then move to the specifics regarding the real estate search. In this manner, the Agent work to prevent a customer/client legal exposure inadvertently. Consider incorporating the following topics in the interview:
    - Introduce Fair Housing to the potential client as soon as reasonably possible when meeting them formally to review real estate wants and needs.
      * Explain how Fair Housing guidelines weaves into the home selling and home buying process. Clarify the questions you can NOT answer during the property sale and purchase process relating to any of the protected classes.
      * Emphasize that the ongoing relationship will adhere to Fair Housing guidelines throughout the entire transaction.
    - Review agency representation options and explain Disclosed Dual Agency.
    - Outline how confidentiality works as dictated by Nebraska law and agency selection.
    - Discuss briefly how Agent must follow Antitrust guidelines when discussing pricing and any other competitive information relating to other Agents or brokerages.
    - Gather information from the Seller/Buyer specifics relating to physical property characteristics, community needs, finance requirements, geographic preferences and special needs.
    - Do a quick overview of how the Multiple Listing Service works.

**Misrepresentation and Concealment in Real Estate**

* **Intentional Misrepresentation** - occurs when someone purposely misleads another to ensure they move forward with a transaction.
* **Negligent Misrepresentation** - occurs when someone does not take ordinary care to ensure the truth of a statement is accurate.
* **Innocent Misrepresentation** – occurs when one that has induced a party into a contract had reasonable grounds for believing it was true at the time the representation was made.
* **Concealment** – the act of refraining from disclosure especially an act which prevents or hinders the discovery of something – a cover up. It is likely to keep another from learning of a fact of which he/she would otherwise have learned.
* **Top Claims Against Real Estate Agents**
  + Real estate fraud
  + Breach of duties (especially if these are listed in an Agent’s agreement)
  + Contract violations
  + Negligence (failing to use reasonable care when conducting transactions)
  + Damage to property (for instance, during an appraisal or when inspecting a home)
  + Misrepresenting property conditions, damage, or value
  + Disputes over [escrow](https://www.legalmatch.com/law-library/article/escrow-in-real-estate-transactions.html) and down payments

**Inspection Fail**

A Seller had his home inspected by a professional prior to putting the home on the market. As a result of the report, the Seller replaced the flooring on an upper level deck. The property is sold. At a celebration party, the deck railing collapsed, and a guest fell off resulting in severe injury. The guest filed a lawsuit against the new owner, prior owner, contractor and the home inspector who did the pre-sale inspection. Nowhere in the original report was the deck railing mentioned as faulty.

Which of the liability categories, if any, would apply in this case? Who if anyone would be held responsible and why?

**Forgotten Lot**

A Buyer’s Agent shows several properties to a couple who want to purchase a home for a parent. They fell in love with a property that had an additional lot next to the home.The MLS listing showed two lots for sale - the one on which the home sat and the garden lot. The Buyer’s Agent advises the couple that the adjoining lot is part of the sale of the property and writes up an offer according. Unknown to the Buyer’s Agent, the Listing Agent had sold the lot separately months before and failed to update the MLS. After the transaction closes, the couple learns that they had not purchased the additional lot and filed a lawsuit against the Sellers, and both Agents.

Which of the liability categories, if any, would apply in this case? Who if anyone would be held responsible and why?

**Commercial Fall**

A customer called a Licensee about a commercial storage unit after reading the For-Sale sign that listed the Licensee’s name and company. The customer toured the property with the Agent. During the showing, the customer climbed a ladder that the Agent located to inspect the roof. The customer fell off the ladder and broke his hip. The customer filed a lawsuit against the Agent and company. The Designated Broker claimed that they had no responsibility for the actions of the Agent (who provided the ladder) since he was an independent contractor.

Which of the liability categories, if any, would apply in this case? Who if anyone would be held responsible and why?

**Square Footage Mistake**

In a Limited Dual Agency transaction, an Agent writes up a purchase agreement for a Buyer on a property he has listed which consists of two residential and two commercial units. The Dual Agent provides information about commercial rents and square footage of each unit which she had measured personally by pacing off the rooms. Buyer moves forward into closing on the owner financed transaction, relying upon the information provided by the Dual Agent.Following the purchase, the Buyer discovers that the that the actual square footage is off by 700 square feet which will impact the amount of rent the Buyer can charge and collect. The Buyer refuses to make the required installment payments that were part of the purchase agreement. After three months, the owner forecloses on the property. Buyers file a lawsuit against the Owner, Dual Agent and company.

Which of the liability categories, if any, would apply in this case? Who if anyone would be held responsible and why?

**Commission – For Sale By Owner**

A Buyer’s Agent contacts a For Sale by Owner Seller and gets permission to show the property. Commission is not discussed with the Seller. Seller allows the Buyer’s Agent and Buyer into the property and steps outside to provide privacy for the showing. Afterwards, in the car, the Buyer expresses a desire to write an offer right away, so they don’t lose the opportunity. At this point, no written commission agreement exists between the For Sale by Owner Seller and the Buyer’s Agent. The Buyer expects their Buyer’s Agent to get their commission from the Seller.

What are the issues in this situation?

What steps should the Buyer’s Agent have taken prior to showing the For Sale By Owner Property in order to establish their Buyer agency status and obtaining a commission commitment from the Seller?

Some Buyer’s Agents might want to do a one-day listing on the For Sale by Owner in order to get in writing a commission agreement. How does this create a potential problem in changing their agency representation status with their Buyer?

**Photo Dilemma**

A Listing Agent lists a property that had expired with another company. It is the middle of winter, and the photos of bare trees and brown lawns are unappealing. The Listing Agent goes to the MLS of the expired listing and proceeds to download the first company’s photos into his new MLS data base for the property. The photos are under a copyright to a professional photography firm. Since it “messes up” the image, the new Listing Agent removes the copyright mark.

The owner of the copyright discovers that the images are being used in a new listing and files a copyright infringement for unauthorized use of the photos.

Which of the liability categories, if any, would apply in this case? Who if anyone would be held responsible and why?

**Avoiding Misrepresentation**

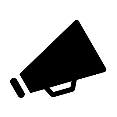
* Visually inspect property.
* Note and respond to any inspection red flags.
* Have Property Condition Report written by the Seller – make sure it is complete.
* Disclose all defects of the property to future Buyers.
* Exercise reasonable care throughout the transaction.
* Think before you respond to questions – reveal fact, not what you think.
* Recommend expert advice (legal / engineer / contractor) rather than venturing an opinion.
* Confirm discussions and decisions with written documentation.
* Maintain complete and accurate files.

**Nebraska Real Estate Commission – Claims**

https://nrec.nebraska.gov/legal/disciplinary%20actions%20sections.html

* Demonstrating negligence, incompetency, or unworthiness to act as a salesperson
* Failing to obtain signed permission to be a Limited Dual Agent.
* Offering real estate for sale without the knowledge and written consent of the owner.
* Failing to fulfill duties as a Buyer’s Agent and exercise reasonable skill and care.
* Failing to fulfill duties as a Seller’s Agent and exercise reasonable skill and care.
* Failure to disclose in writing an adverse material fact to the Buyer.

**Professionalism in Real Estate**

What issues do you see in how real estate agents dress?

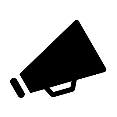
**Dress for Success**

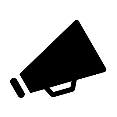
* Standards of dress are set and enforced by the Designated Broker.
* It comes down to individual strategy and establishing a personal branding statement.
* The way an Agent dresses may vary depending upon the market – large city vs. small.
* An agent has only one chance to make a first impression. You are judged by your appearance as well as by your reputation. It is better to live up to the expectations than work to try and overcome a negative first impression.
* Be aware of the types of people, venue, and interaction levels that are going to take place and dress accordingly.
* People make judgements based upon what they feel comfortable with.
* Customers, clients and peers make a value judgement about an Agent within seconds about:
  + Level of professionalism
  + Seriousness in which the Agent takes their role as a real estate Licensee
  + Competency – if the Agent can’t dress well, how will the Agent do on a transaction?
  + Conformity – does the Agent fit their expectations of someone the client want to associate with?
  + Appropriateness for the types of properties the Agent is showing
* If a client relationship turns into a social relationship, always remember that they were a client first before engaging in behavior or donning clothing that may change their professional opinion of you. Once seen, it can’t be unseen.
* Dress to make the right business centered impression.
  + It is usually better to be overdressed than underdressed.
  + If a hip neighborhood where modern jeans rule, dress accordingly.
  + Showing beach properties, casual slacks, but no open toed shoes.
* If you are attending an event – make sure you know the dress code.
  + Black tie vs. a pool party.
    - Note: Sometimes a pool party means cocktails by the pool, not a party where you will actually swim.
* Feedback from Association Executives and Education Directors
  + Largely depends on where you practice - high heels and a silk dress obviously don't work when you're selling a farm. An inner-city office will probably set a different standard than a small-town local office.  A young man may feel he will earn more respect if he wears coat and tie - especially with older clients. Conversely, younger clients may be put off by the Agent that is dressed like their parents going to church! Clean and neat are mandatory always. This goes for cars too. ***Doris Barrell, Dearborn Author, Sept 2019***
  + Brokers that need to set the example and expectations and I’m seeing a decline in this area. If Agents want to be recognized as a professional, act and dress like one. ***Kelly Burge, AE, NW Iowa Board of REALTORS®, Sept 2019***

**Professionalism in All Things**

* When you first meet someone – stand up.
* Introduce yourself and let them know the brokerage you work for.
* Act like a professional in a genuine, respectful manner.
* Keep a clean, well maintained car.
* Office appearance matters. Keep your surroundings color coordinated, organized, meticulously clean and display of artwork.

**Communication and Connection**

 If you were the Seller, what type of communication would you expect?

If you were the Buyer, what type of communication would you expect?

* High Tech vs. High Touch
  + Business communication has evolved to a faster, more efficient use of different platforms via the Internet.
  + E-mail use continues to change and now it has become a way of workflow management by setting priorities, storing records and creating automated responses.
  + Project management is easier due to on-line software that can be “shared” with customers and clients through apps or large file delivery software. It enhances collaboration, especially when designing marketing campaigns for Sellers and providing properties for Buyers to consider.
  + Video information systems like BombBomb allow personal messages delivered via email to clients and automated voice response systems can provide customer service electronically without actually engaging with an individual.
  + Artificial intelligence is learning Buyer and Seller preferences and tracks trends through social media and other streaming type software. This leads to more targeted prospecting opportunities with wording like “Because you saw this, you might like this!”
  + Today’s Licensee is getting further and further away from the “personal touch” due to the ease of using technology.
  + This disconnect can create issues in:
    - Productivity – working so hard to keep on top of all of the on-line avenues to connect with the public. What happens is Licensees have a problem “turning off” and as a result may be distracted enough not to take care of the physical aspects of the real estate transaction.
    - Clients not understanding contracts they receive via electronic delivery
    - Client satisfaction as they aren’t being communicated with the way they want. Licensees are communicating in the way the Licensee wants.
    - Under use of technology creates disruptions in the transactional process.
  + Licensees still interact with individuals of all generations, each with their own preferences in terms of communication. If an Agent relies solely on technology to connect, they begin to lose the “ease” in working with clients face to face or on the phone.
* High Touch is all about relationship building that is 3 dimensional – through phone, electronic and face to face. When sight, touch, sound are engaged, the human interaction becomes more memorable and has a staying power that fuels referrals and recommendations. A major part of high touch is to be an effective listener.

**The Basic Communication Process**

* The communication process is based upon the individual perception of the situation which is based on personal beliefs and expectations.
* We come into any relationship with expectations which is a frame of reference and dictated by our personality based on previous success and/or failures in similar conversations, past practices and information about the other party.
* The best interaction occurs when an Agent identifies the interests of the other party, not assuming what they think they know, but working in what they actually know. This means gaining information through questioning and actively listening to responses.

**Behaviors Dictate Response**

Please identify behaviors that directly affect the way you relate to others.

*An example of a negative behavior might be - not listening to instructions.*

*An example of a positive behavior might be – never jumps to conclusions without asking for clarity.*

**The Art of Effective Communication**

* Listen to your customer/client. Ask follow-up questions to gain understanding of their point of view. A thorough interview encourages the client to talk 80% of the time.
* Make sure your facts are straight.
* Don’t discuss a situation when you are angry.
* Use a quiet, conversational voice tone.
* Be descriptive rather than evaluative.
* Don’t hint of criticism without following through.
* Be aware of your biases, personal feelings.
* Focus on the future, not the past

**Harasses Buyers**

The Seller, Ralph Wandersabout insists on being present when his home is being shown. Unfortunately, Ralph is being disruptive - he plays loud music or talks constantly to anyone that will listen while Buyer’s Agents are showing his property. He is a very social guy, but his goofing around is actually making potential Buyers uncomfortable.

How would you handle this situation with Ralph?

**Gets it Wrong**

Your assistant, Melinda means well, except whenever she is given instructions regarding a project, she is doing for you, she always seems to get it wrong. Sometimes it relates to completion time frames, formatting of the paperwork or specific facts outlined in the material. Some of these mistakes have caused embarrassing moments.

How would you handle this situation with Melinda?

**Always Negative**

Ernie, an Agent from your company, is coming down the aisle and you have nowhere to hide. Ernie likes to trap you in a corner and growl negative comments about his clients and the brokerage. He never earns enough, he doesn’t get the time off he feels he deserves, and the clients and customers are always unreasonable. The way he makes it sounds, it is as if you both work in a grueling labor camp…when actually, you really like your work, the people in the office and management.

How would you handle this situation with Ernie?

**Buyer Disconnect**

Agent, Gene is a little upset with his Buyers. Several times through the last month, Gene has sent information about the closing and the Buyers fail to respond. When he sends them forms, they fill them out incorrectly or may not respond at all. “I can’t understand why this is so difficult!” is a common utterance from Gene.

How would you handle the situation with the Buyers? What may be going wrong?

## Effective Listening Skills

* Listening is an intellectual and emotional experience where the listener searches for meaning by interpreting the words, emotions and body language of the speaker.
* Active listening is the highest of level communication. It requires that you see things from the speaker’s point of view, that you show concern and interest in what is being shared and you become sensitive to the context in which things are being shared.
* Barriers to effective listening include:
  + Lack of mutual trust
  + Perception differences
  + Premature evaluation
  + Trying to change instead of understanding
  + One-way communication
  + Surroundings, environment, and distractions
  + Pace
  + Lack of eye contact
  + Extensive use of jargon

**Effective Questioning Skills**

* Open communication requires the use and mastery of many question types and formats. Example: open, closed, tie-downs, alternative or choice and clarifying.
* In the initial stages open questions are most appropriate.
* To assist in decision making, closed questions are most appropriate.

Write three (3) open questionsyou could ask a Seller in a listing appointment

Write three (3) closed questions you could ask a Seller in a listing appointment.

* Feedback Loop confirms understanding - once the other party has answered your question, attempt to understand them by restating the response, confirming your perspective of the response or by asking a clarifying question. Examples include:
  + “What I hear you saying is…”
  + “Let me see if I understand you…”
  + “Then what you mean is…”

**Trial closing and addressing concerns**

* During the discussion phase of establishing your relationship with the other party, seek to discover their concerns.
* Make note of these concerns and think about how you will provide solutions.
* To determine if you have addressed the other party’s’ concerns, consider a trial close by summarizing your mutual agreements and get that person’s approval. Examples include:
  + “Is ten days enough time to get this completed?”
  + “Would you like to have assistance?”
  + “Would next Friday be a good day to schedule another meeting?”

**Making the Decision**

* When all the concerns have been identified and discussed, it is time to make the decision.
* Articulate the benefits of making a decision and tactfully ask for it.
* Make this process easy and routine.
* Use the right words and remember phrase selection is critical. For example:
  + “Do you feel comfortable with the decisions we have made today?”
  + “Are you ready to move forward in the manner we discussed?”

**The Follow-up**

* Successful relationships mean cooperation and continued interaction in order to see a project come to a successful conclusion.
* Establish a follow up process and timing. Stick to the schedule.

**Activities to Increase Perception of Professionalism**

* Excerpts from Pathways to Professionalism (NAR)
* Prompt responses in the way others wish to be communicated with.
* Advise others if off schedule or need to cancel appointments.
* Announce yourself loudly when entering a property.
* Never talk negatively about a property while owners are present.
* Don’t use slang or jargon that others might not understand.
* Keep your promises.
* Meet all deadlines.
* Provide information that is factual, not what you “think.”
* Never leave a Buyer unaccompanied in a property.
* Leave property as you found it, but if something feels wrong let the other Agent know immediately.
* Do not use a Seller’s home as if it was your own – no smoking, eating, using bathrooms, etc.
* Notify other agent’s if MLS information is inaccurate.
* Do not prospect at other agent’s open houses.

**Appendix**

**Session Evaluation**

Session Title: Developing Professional Conduct Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Presenter:

1. How did you find out about this program? (Select all that apply)

\_\_\_ Calendar handout \_\_\_ College Bulletin \_\_\_ E-Mail \_\_\_ Fax

\_\_\_ Internet \_\_\_ Mail \_\_\_ MLS \_\_\_ Newsletter

\_\_\_ Word of mouth \_\_\_ Workplace \_\_\_ Other

**Session Evaluation Very**

**Excellent Good Good Fair Poor**

1. Session content (worth time and money invested) 5 4 3 2 1
2. Contribution to overall career knowledge 5 4 3 2 1
3. Likelihood of actual use of session material 5 4 3 2 1

**Presenter Evaluation**

1. Demonstrated material and subject knowledge 5 4 3 2 1
2. Use of visual aids and technology 5 4 3 2 1
3. Encouraged student involvement & participation 5 4 3 2 1
4. Handout organization & ease of use 5 4 3 2 1
5. Handling of student questions & feedback 5 4 3 2 1
6. Overall presentation style 5 4 3 2 1
7. What could be done to improve the session? (Please use the back if you need more room)

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1. If you felt the session was worthwhile and beneficial, please write down your comments for the meeting planner. (Please use the back if you need more room).

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***I hereby give \_\_\_\_\_\_\_\_\_\_\_\_ permission to use my comments in her advertising efforts utilizing any and all media (i.e., internet, newspaper, radio, brochures, etc.)***

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Sign Name Date Print Name